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# EUDO CITIZENSHIP OBSERVATORY

## ***COUNTRY REPORT: GEORGIA***

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European University Institute, Florence  
Robert Schuman Centre for Advanced Studies  
EUDO Citizenship Observatory

***Report on Georgia***

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# Georgia

Alexi Gugushvili<sup>1</sup>

## 1. Introduction

Although Georgia has granted dual citizenship to more than 36,000 people since 2004 and simplified naturalisation requirements, *ius sanguinis* remains the central principle of the established citizenship regime, and ethnicity largely determines one's dual citizenship. The post-Soviet nationality policies of Georgia can be linked to that of Georgia's First Democratic Republic of 1918-1921. On both occasions – after the fall of the Russian Empire and the Soviet Union – Georgia had to apply collective naturalisation, encountered secessionist movements at home, and faced the difficult struggle of establishing new economic, political and social systems. The main difference between the two systems was that the earlier one was social democratic, whereas the latter is market-oriented (Jones, 2012).

If in the beginning of the 1990s nationalistic ideas dominated citizenship debates, from the second half of the 2000s, demographic, socioeconomic and, more recently, political concerns began to be of primary importance. Perhaps one of the main reasons why nationalism ceased being the dominant force shaping citizenship policies was the failure to build a prosperous homeland for Georgians within the inherited Soviet geographic borders. Only a few years after independence it became clear that not only did foreign residents not strive for Georgian citizenship, but a significant part of local ethnic minorities, followed by a large number of native Georgians, increasingly began to seek better life opportunities abroad. Maybe the most salient feature of citizenship in Georgia is 'citizenship wars' and the antagonism among the four separate citizenship frameworks found within its internationally recognized borders. In addition to the central citizenship regime, two *de facto* independent regions of Abkhazia and South Ossetia<sup>2</sup> have established their sovereign citizenship provisions, while the Russian Federation also exerts its citizenship policies in both of these territories.

Nevertheless, citizenship matters, as understood by the EUDO Citizenship Observatory, only enter the wider public discourse on rare occasions, such as citizenship disputes of major opposition figure. In everyday Georgian language the words 'citizen' ('*მოქალაქე*') and 'citizenship' ('*მოქალაქეობა*') mostly refer to individuals' residency or belonging to local communities or wider social structures. This is related to the etymological meaning of the word which denotes the residency of persons in urban as opposed to rural areas and in this sense comes close to the English and German words 'citizen' and 'bürger.' The constitution of Georgia does not precisely define the meaning of 'citizenship,' but its preamble describes the citizens of Georgia as those who have the firm will to establish a democratic social order, to secure universally recognised human rights and freedom and to enhance state independence and peaceful relations with other peoples.<sup>3</sup> All citizens of Georgia have the same rights and responsibilities regardless of the mode of citizenship acquisition. However, according to Article 29<sup>1</sup> of the Constitution of Georgia, adopted on 24 August 1995, a Georgian citizen, who is at the same time a citizen of another country cannot become Georgia's President, Prime Minister or a Speaker of the Parliament.<sup>4</sup> The law on citizenship defines the term 'citizenship' both as a political as well as a legal bond with the Georgian State, which is reflected in reciprocal

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<sup>2</sup> Abkhazia and South Ossetia are the disputed territories, geographically located in northwestern and central Georgia, both of which consider themselves independent states and by March 2012 had been recognised by the Russian Federation, Nicaragua, Venezuela, Nauru and Tuvalu. In contrast, Georgia and most countries of the world consider Abkhazia and South Ossetia inseparable parts of the Georgian territory.

<sup>3</sup> Constitution of Georgia, adopted on 24 August 1995.

<sup>4</sup> Art. 29<sup>1</sup>, *ibid*.

rights and obligations and is based on respect for human dignity and recognition of fundamental human rights and freedoms.<sup>5</sup>

On the other hand, the word ‘nationality’ (‘*ქრისტიანობა*’) most often refers to the ethnicity of individuals, is only marginally related to the notion of ‘citizenship’, and is rarely used in the legal framework. ‘Nationality,’ reflecting persons’ institutionalised ethnic identity, had been inscribed in ID cards as a supplementary feature and subcategory of citizenship before 1999 but, like in most other post-Soviet societies, was abandoned thereafter (Mühlfried, 2010). Last but not least, citizenship and nationality can arguably be contrasted in terms of the state vs. nation dichotomy, where citizenship tends to mean belonging to the state, while nationality is more likely to mean belonging to the nation (Mataradze, 2011).

## 2. Historical background

### 2.1. Citizenship in Democratic and Soviet Republics of Georgia

Having been effectively under foreign jurisdiction since 1801, Georgian legal framework largely mirrored that of the Russian Empire, which did not have a specific law on citizenship<sup>6</sup> before the inception of the Soviet regime in 1917 (Alexopoulos, 2006). This changed when Georgia declared independence and immediately started to create its sovereign legislative framework on citizenship in 1918. Indeed, the first act approved by the Constituent Assembly of Georgia was a decree on Citizenship of the Democratic Republic of Georgia.<sup>7</sup> Shortly after, the Law on Citizenship<sup>8</sup> was passed as the consequence of intense legislative debates (State and Law, 1990). Citizenship was granted to all those individuals who were registered in any administrative unit of the territory of Georgia before 19 July 1914. Only Georgian citizens could participate in political life, but the government could temporarily grant public positions to foreign citizens. A citizen of Georgia was not allowed to be a citizen of another country. Those who lived in Georgia permanently since 1 January 1914 but did not have formal registration could also be granted citizenship if they applied for it within 3 months after the adoption of the law and had property or were engaged in economic activities in the country. Aliens could apply for naturalisation after 2 years of permanent residency in Georgia, and the authorities had to grant or refuse citizenship to an applicant within a year. The law also defined simplified procedures of naturalisation to those individuals who played a special role in the Georgian socioeconomic, scientific and cultural life. By its nature, the law was close to the European laws of the time (Loria, 1995), and as is shown below the broad principles of the first citizenship regime in relation to naturalisation and dual citizenship were re-instated during the post-communist era.

The Law on Citizenship of 1919, along with other attributes of the Democratic Republic, was abolished after the Soviet annexation of Georgia in 1921. The Special Commission at the Presidium of the Supreme Soviet of the Soviet Socialist Republic of Georgia maintained the formal functions on naturalisation of foreigners and stateless persons, but the actual decisions were made by the Central Soviet authorities based on the Soviet Citizenship Law approved in 1938 (Taracouzio, 1939). The execution of decisions on citizenship and issuing Soviet passports was performed by the Ministry of Internal Affairs of Georgia. The judicial unit of the Supreme Soviet Presidium monitored the execution of citizenship-related decisions. The Georgian Presidium of the Supreme Soviet annually prepared and presented reports on citizenship matters to the all-union Presidium the Supreme Soviet (Loria, 1995). The prevailing official ideology of equality did not prevent the Soviet citizenship regime from being discriminatory. Citizenship was differentiated along lines of ethnicity, inscribed in passports, ID cards, residence permits and birth certificates, which affected geographic mobility,

<sup>5</sup> Organic Law of Georgia on Citizenship of Georgia, adopted by the Parliament of Georgia on 25 March 1993.

<sup>6</sup> However, there were several legislative acts that regulated the naturalisation of foreigners and the citizenship of children and married women in the Russian Empire.

<sup>7</sup> Decree on Citizenship of the Democratic Republic of Georgia, adopted by the Constituent Assembly of Georgia and the Government of Georgia on 16 July 1918.

<sup>8</sup> Law on Citizenship of the Democratic Republic of Georgia, adopted by the Constituent Assembly of Georgia on 27 May 1919.

access to housing and land, and conditioned professional and party careers (Mühlfried, 2010). Perhaps most consequentially for Georgia, the Soviet Constitution defined that for all citizens of Soviet Socialist republics, and autonomous territorial units with them, multi-level and common Soviet citizenship was applied. This meant that a citizen of an autonomous republic was at the same time a citizen of the titular Soviet Republic, Georgia in this case, and the Soviet Union as a whole. Soviet Georgia had two such autonomous territorial units—Abkhazia and South Ossetia. Thus, despite little information on perceptions of citizenship in the Georgian Soviet Socialist Republic, it is reasonable to assume that Abkhazians and South Ossetians were likely to perceive themselves as local and Soviet citizens, overlooking the interim Georgian Soviet level. This perception became more intensively manifested after the breakdown of common Soviet citizenship at the beginning of the 1990s.

## 2.2. Independence and the Law on Citizenship of 1993

Issues related to citizenship became of primary importance immediately after the collapse of the Soviet Union. The crucial aspect was not limited to the rules for initial determination of Georgian citizenship but also to determining the acquisition of Georgian citizenship in the future. Soviet citizenship had lost its meaning for the residents of the territory of Georgia on 25 December 1991 when the Soviet Union was dissolved. Nevertheless, until the adoption of the new law in 1993, the status of the former Soviet citizens in Georgia remained undetermined. However, it is often forgotten that the Supreme Assembly of the Republic of Georgia, the first post-Soviet democratically-elected legislative body, passed a draft law on citizenship in the first hearing on 28 June, 1991.<sup>9</sup> This draft law envisioned the automatic acquisition of Georgian citizenship by those who were permanent residents of Georgia at the time of the law's approval, had a permanent job, or other legal sources of income, or any property on Georgian territory and expressed their will to become Georgian citizens by signing a declaration of loyalty. For naturalisation requirements, consensus was reached on 10 years of residency in Georgia, knowledge of the Georgian language and local language in an autonomous republic and having a permanent source of income, job or property. The draft law did not mention dual citizenship at all. Importantly, despite the excessive nationalism of the presiding leadership of Georgia at the time, the draft law did not discriminate against non-Georgian ethnicities, as might have been expected from the prevailing scholarly views on the excessive nationalism of the presiding leadership of Georgia (Brubaker, 1992). The law was not approved, as the radical polarization in Georgian society resulted in the violent coup d'état of January 1992. For more than a year, ongoing civil and ethnic war deferred any consideration of the citizenship regime.

In the spring of 1993, a newly installed parliament started to discuss three alternative draft proposals of the law on citizenship prepared by various groups. The main pillar of the law had to become a clause on collective naturalisation, which meant that all residents of Georgia would become citizens of Georgia with the enforcement of the Law. Work on the law was done in several parliamentary commissions, and the main actors in drafting were a few political parties, such as Traditionalists, the People's Front and the Republican Party, along with separate independent MPs.<sup>10</sup> Although the participation of civil society and intelligentsia loyal to the ruling authorities was often acknowledged, this engagement was largely ceremonial.<sup>11</sup> The general review of the initiative on the plenary sessions, regularly aired live on national TV, was followed by debates and revision of separate articles of the law. The MPs agreed that *all*<sup>12</sup> residents of Georgia who 'had permanently lived in the country for not less than 5 years and at the moment of enactment of the law resided in Georgia' would automatically acquire citizenship if they did not renounce it in a written form within 3

<sup>9</sup> Draft Law on Citizenship of the Republic of Georgia, adopted in the first hearing by the Supreme Assembly of the Republic of Georgia on 28 June 1991.

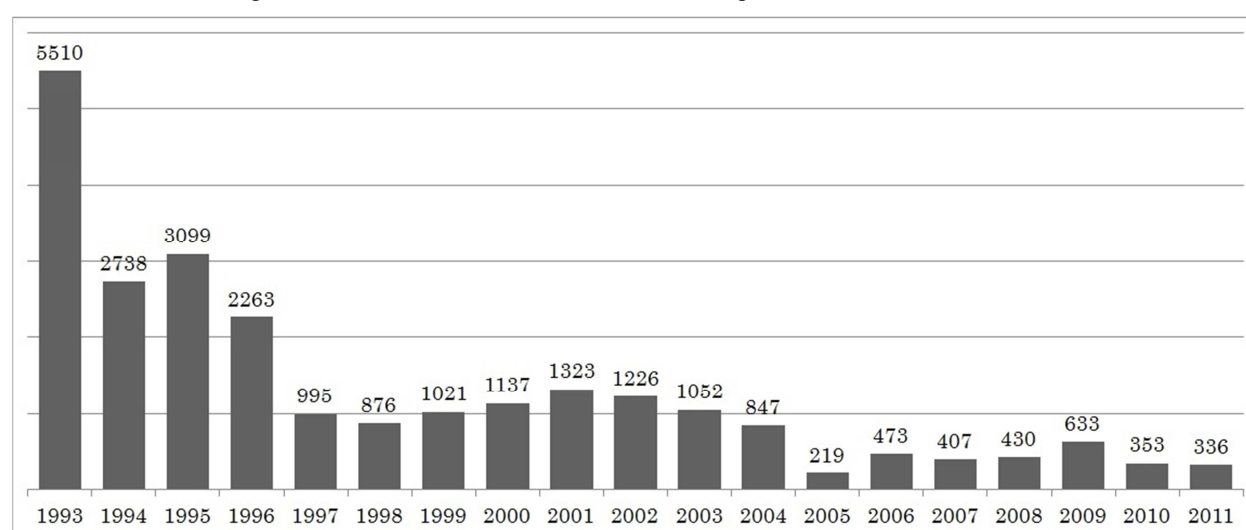
<sup>10</sup> The Georgian Orthodox Church was also consulted in drafting some sections of the law.

<sup>11</sup> Minutes of the plenary session of the Parliament of Georgia on 11 March 1993.

<sup>12</sup> While in other post-Soviet states the initial citizenship body of the state extended to permanent residents, the Georgian citizenship law did not have a specific mention for permanent residents, and extended citizenship to the ambiguously defined "all residents of Georgia who had lived in the country for 5 years at the time of independence" (see Article 3 of the Citizenship law).

months.<sup>13</sup> One of the reasons why a defined time-period for renouncement of Georgian citizenship was established was because some people who lived in Georgia but did not aspire to Georgian citizenship — possibly due to their ethnicity or associated responsibilities, such as conscription — could easily avoid having one. As figure 1 shows, according to official statistics, the greatest number of people who formally renounced Georgian citizenship and emigrated from the country came in the first few years of independence, reaching 13,610 persons in 1993-1996 and significantly declining thereafter, especially after 2005.<sup>14</sup> Although competing ideas were expressed about the naturalisation requirement, most political groups were in favour of strict conditions for granting citizenship, which was presumably determined by the political environment of the time. It was believed that easy naturalisation to citizenship would gradually allow the neighboring countries to increase their leverage on Georgia by creating ‘the fifth column’<sup>15</sup> of ethnically non-Georgian citizens of Georgia, who would be able to affect the country’s political processes, while strict conditions could prevent this potential adverse intervention.

Figure 1: Permanent withdrawal from citizenship, number of individuals



Source: Civil Registry Agency (2012).

MPs were also concerned about the international community’s perception of the drafted law, as excessively strict conditions could affect strategic relations with Europe and the United States.<sup>16</sup> After considering different lengths of obligatory residency for naturalisation, including 15 years, it was agreed that 10 years was sufficient to defer potential threats, at least for a decade (Khmaladze, 2011). The number of naturalised individuals always remained low and never exceeded 175 annually before 2011, as is shown in figure 2.

One of the most debated aspects of the citizenship law debate became the issue of granting dual citizenship to foreign citizens. This principle resembled the Law on Citizenship of 1919. Many MPs who participated in the process of drafting the legislation were acquainted with the first law (Khmaladze, 2011). The law restricted dual citizenship, and the threats of dual citizenship debated in the beginning of 1900s resembled those discussed at the end of the twentieth century. A radically negative attitude toward dual citizenship among political elites and most likely among the majority of the population was arguably caused by two main reasons. Firstly, dual citizenship was seen as a measure desired by the Russian Federation, which allegedly intended to use Russian speaking

<sup>13</sup> Art. 3, Law of the Republic of Georgia on Citizenship of the Republic of Georgia.

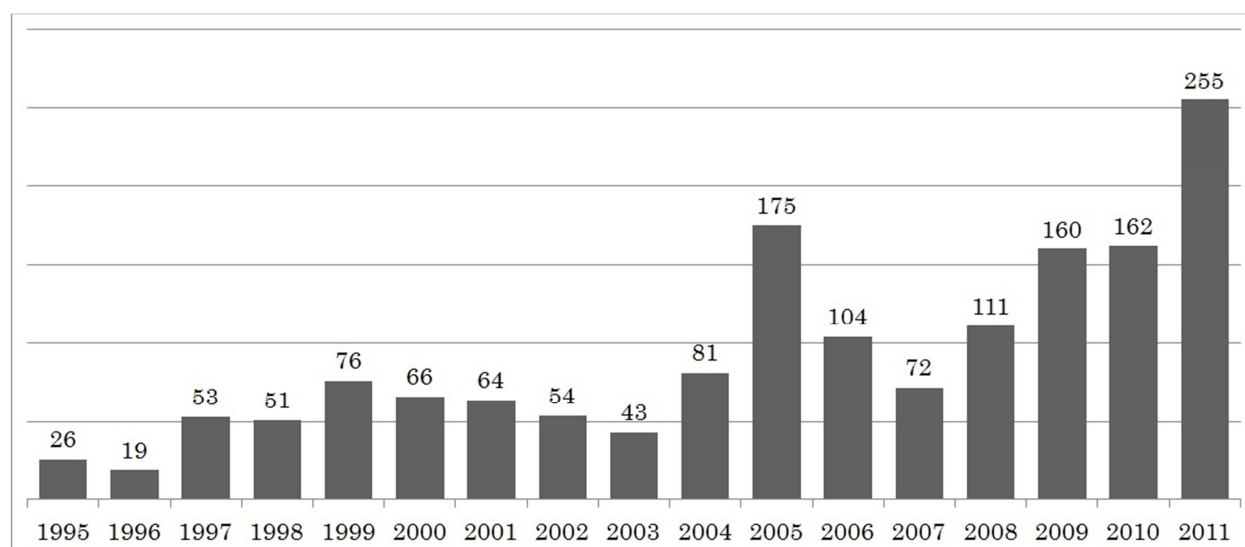
<sup>14</sup> Permanent withdrawal primarily means to leave Georgia permanently.

<sup>15</sup> A fifth column refers to any clandestine group or faction of subversive agents who attempt to undermine a nation's solidarity.

<sup>16</sup> Minutes of the plenary session of the Parliament of Georgia on 11 March 1993.

minorities in Georgia against Georgian national interests. On the other hand, the sheer number of ethnically Georgian expatriates having foreign citizenship was not big enough in the beginning of 1990s, and hence no particularly high demand for dual citizenship existed.<sup>17</sup> Most political parties in the 1993 Parliament opposed the idea of dual citizenship, among which the Merab Kostava Society<sup>18</sup> was the most vigorous. Some MPs were even dissatisfied that the head of the country might have the ability to grant dual citizenship to foreigners in exceptional cases, while others demanded dual citizenship to become a subject of a referendum.<sup>19</sup> Interestingly, several months before the debates on Citizenship Law, the Cabinet of Ministers issued a decree allowing dual citizenship to former military personal from other ex-Soviet Republics who served in the Georgian army. Although this was done to foster Georgian military manpower in the ongoing ethnic conflicts in two separatist territories, the parliament decided to abolish this decree to serve the higher national interest.<sup>20</sup>

Figure 2: Naturalisation, number of individuals



Source: Civil Registry Agency (2012).<sup>21</sup>

### 2.3. Citizenship in Abkhazia and South Ossetia

One of the most important aspects affecting the formation of a citizenship regime was the presence of two secessionist conflicts in Georgia. The Law on Citizenship was drafted after the armed conflict in South Ossetia (1991-1992) and during the armed conflict in Abkhazia (1992-1993), which resulted in the dramatic decline of the ethnically Georgian population in both regions as shown in table 1. The initially adopted version of the law stated not only the requirements related to residency in Georgia, but also stated that citizens were considered those persons who within four months after the entry into force of the law had not renounced Georgian citizenship in writing and who had received the documents that confirmed their citizenship.<sup>22</sup> At the time Georgia had already lost effective control over the two breakaway territories. This meant that citizens from these regions could not obtain documents confirming citizenship within four months (as Article 3 required). Apparently for this reason, the law was revised on 24 June 1993 and the described criterion was abolished, while the time

<sup>17</sup> S. Subeliani. სჭირდება თუ არა საქართველოს ორმაგი მოქალაქეობა? [Does Georgia need dual citizenship?] *Radio Free Europe: Radio Liberty* [Online]. 27 February 2002. Available: <http://www.tavisupleba.org/content/article/1519145.html> [Accessed 5 November 2011].

<sup>18</sup> Merab Kostava Society was arguably one of the most nationalistic political groups in Georgia of 1990s.

<sup>19</sup> Minutes of the plenary session of the Parliament of Georgia on 11 March 1993.

<sup>20</sup> Minutes of the plenary session of the Parliament of Georgia on 23 March 1993.

<sup>21</sup> 1995 is the earliest year for which data on naturalisation and other aspects of citizenship are provided by the CRA.

<sup>22</sup> Law of the Republic of Georgia on Citizenship of Georgia, adopted by the Parliament of Georgia on 25 March 1993.



limit for the refusal of citizenship was extended from 3 months to 6 months.<sup>23</sup> This implied that residents of the breakaway territories of Abkhazia and South Ossetia became Georgian citizens even without any documentation issued by the *de jure* central authorities. Although the law allowed an option to renounce Georgian citizenship, consent was presumed if persons did not protest within six months. In reality however, the residents of territories controlled by the separatist authorities, mostly ethnic Abkhazians and Ossetians, did not have an opportunity to convey the formal refusal even if they had aspired to do so (Artman, 2011). Nonetheless, the Georgian side not only assumed that Abkhazians and South Ossetians were citizens of Georgia but also hoped that many of them would gradually take up Georgian identification documents. These expectations did not materialise as only a small fraction of the population in the secessionist territories, especially in Abkhazia,<sup>24</sup> obtained Georgian passports, and those who did mainly sought them for pragmatic purposes such as trading opportunities, travelling abroad or undergoing treatment in Georgian health facilities (Toal & Grono, 2011).

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<sup>23</sup> Law of the Republic of Georgia on amendments to the Law of the Republic of Georgia on Citizenship of Georgia, adopted by the Parliament of Georgia on 24 June 1993.

<sup>24</sup> Because in Ossetia the distribution of population and control over territories was not straightforward, more Ossetians, who lived in Georgian or mixed villages, have taken Georgian passports.

Table 1: Ethnic Composition of Residents, in thousands of persons and in percentages (in parentheses)

| Ethnicities       |              |            |            |            |             |            |            |               |
|-------------------|--------------|------------|------------|------------|-------------|------------|------------|---------------|
|                   | Georgians    | Azeris     | Armenians  | Russians   | Abkhazians. | Ossetians  | Others     | In total      |
| Georgia           |              |            |            |            |             |            |            |               |
| 1989 <sup>a</sup> | 3787.4(70.1) | 307.6(5.7) | 437.2(8.1) | 341.2(6.3) | 958.5(1.8)  | 164.1(3.0) | 267.6(5.0) | 5400.8(100.0) |
| 2002 <sup>b</sup> | 3661.2(83.8) | 284.8(6.5) | 249.0(5.7) | 67.7(1.5)  | 3.5(0.1)    | 38.2(0.9)  | 67.4 (1.5) | 4371.5(100.0) |
| Abkhazia          |              |            |            |            |             |            |            |               |
| 1989              | 239.9(45.7)  | –          | 76.5(14.6) | 74.9(14.3) | 93.3(17.8)  | 1.2(0.2)   | 39.3(7.4)  | 525.1(100.0)  |
| 2003              | 44.0(20.6)   | –          | 44.9(21.0) | 23.4(10.9) | 94.6(44.2)  | 0.5(0.2)   | 6.6(3.1)   | 214.0(100.0)  |
| S. Ossetia        |              |            |            |            |             |            |            |               |
| 1989              | 28.7(29.0)   | –          | 0.9(0.9)   | 2.1(2.1)   | –           | 65.2(65.9) | 2.1(2.1)   | 99.0(100.0)   |
| 2007              | 17.5(25.0)   | –          | 0.9(1.3)   | 2.1(3.0)   | –           | 47.0(67.1) | 2.5(3.6)   | 70.0(100.0)   |

Notes: <sup>a</sup> Including Abkhazia and South Ossetia, <sup>b</sup> Excluding Abkhazia and South Ossetia. Sources: State Department of Statistics of Georgia (2003), Ethno-Caucasus (2012), PCGN (2007).

Not wishing to be a part of Georgian jurisdiction, South Ossetia filed a petition to the Russian government to grant Russian citizenship to its inhabitants as early as March 1992. The proposal was rejected by the Russian side, recognizing the territorial integrity of Georgia which had already joined the Commonwealth of Independent States (CIS) (Mühlfried, 2010). However, relationships between Georgia and Russia gradually became more confrontational, and granting Russian citizenship to local residents of Abkhazia and South Ossetia became more common after 2002, when the new Russian Law on Citizenship was adopted (Littlefield, 2009). Former citizens of the USSR could acquire Russian citizenship in a simplified manner without meeting the fixed minimum residency requirement in the territory of the Russian Federation, nor demonstrating sufficient means for subsistence or showing proficiency of the Russian language.<sup>25</sup> In fact, not only did it become redundant to move to Russia for the citizenship application, the residents of Abkhazia and South Ossetia were able to ‘apply without leaving their homes’ (Natoli, 2010).

An often overlooked aspect of the citizenship regime in Georgia is the legal frameworks set up by the separatist governments. The South Ossetian law on citizenship of 2006 stipulates that dual citizenship is admissible for its citizens.<sup>26</sup> In contrast, the Abkhaz Law on Citizenship of 2005 stipulates that dual citizenship with countries other than Russia is allowed *only for* persons of Abkhaz ethnicity, whereas dual citizenship with Russia is allowed to every citizen of the Republic of Abkhazia.<sup>27</sup> Furthermore, Abkhazia grants citizenship to all ethnic Abkhaz as well as to all other individuals who had lived permanently in Abkhazia for at least 5 years at the time of the 1999 *de facto* declaration of independence.<sup>28</sup> These criteria automatically exclude those ethnic Georgians who were displaced by the fighting in 1992-1993 (HRW, 2011).

The described conditions meant that from the Russian and secessionists’ perspective, granting Russian citizenship to residents of Georgia’s separatist regions was legal. The Abkhaz president reported that around 80 per cent of the republic’s population held Russian passports by 2005,<sup>29</sup> which made up around 170,000 individuals.<sup>30</sup> The Georgian side continuously protested against this policy at various venues, calling it ‘the hidden annexation.’ However, prior to the creation of the EU’s Independent International Fact-Finding Mission on the Conflict in Georgia (IIFFMCG) in 2008 to investigate the root causes of the August 2008 military confrontation between the Russian Federation and Georgia, no credible independent assessment of this citizenship dispute existed. In its final report, which was acknowledged by all belligerent sides, IIFFMCG (2009) stated that the naturalisations of residents of South Ossetia and Abkhazia by the Russian Federation was a citizenship policy that aimed to confer citizenship on ‘the citizens of another state without sufficient factual links, especially if it is implemented on a large scale’ (ibid, 169), violating first the specific prohibition of extraterritorial collective naturalisations, and also several general principles of international law, such as infringement of the prohibition of extraterritorial collective naturalisation, violation of Georgia’s jurisdiction over persons, violation of Georgia’s territorial sovereignty, interference in the internal affairs of Georgia and violation of the principle of good neighbourliness. On the other hand, contrary to the Georgian side’s position, the report also concluded that the ‘passportisation’ of Abkhazians and South Ossetians by the Russian Federation before August 2008 generally occurred on a voluntary basis.

Aligned with ideological and security considerations, Russian citizenship also provided residents of Abkhazia and South Ossetia with free entry into the Russian Federation and other destinations, as well as pensions and other social benefits which were much higher than those offered

<sup>25</sup> The timeframe for this option was continuously extended until 1 July 2009.

<sup>26</sup> Constitutional Law of the Republic of South Ossetia on Citizenship the Republic of South Ossetia, adopted on 23 August 2006.

<sup>27</sup> Law of the Republic of Abkhazia on Citizenship of the Republic of Abkhazia, adopted on 24 October 2005.

<sup>28</sup> The Abkhaz law also excludes from citizenship those who have participated in the Georgian-Abkhazian War at the beginning of the 1990s and/or have been against an independent Abkhazian state thereafter.

<sup>29</sup> Civil Georgia. Abkhaz leader speaks of relations with Moscow, Tbilisi. *Civil.Ge: Daily News Online* [Online]. 17 August 2005. Available: <http://www.civil.ge/eng/article.php?id=10572> [Accessed 15 November, 2011].

<sup>30</sup> This is calculated based on the size of the population of Abkhazia in 2005.

by the Georgian social security system. Nevertheless, these entitlements did not entail common citizenship duties, and Abkhazians and South Ossetians were exempt from military service and taxation— all of which made Russian citizenship much more attractive than Georgian citizenship<sup>31</sup> (HRW, 2011; Mühlfried, 2010).

## 2.4. Liberalisation and Politics of Citizenship

In the first decade after approval of the 1993 citizenship law, major developments regarding citizenship were happening in secessionist regions. In the meantime little changed in qualitative and quantitative aspects of the citizenship regime in the uncontested territory of Georgia. However, by the beginning of the 2000s, two factors affecting perception of dual citizenship had evolved. Most ethnic minorities had already left the country, followed by waves of emigration of ethnic Georgians, which resulted in a dramatic decline in the size of the population in the country and an increase in the proportion of Georgians in the total population of Georgia (see table 1). These changes apparently decreased the perceived threat of dual citizenship and also increased the demand for it given the growing Georgian Diaspora in various countries. The dual citizenship initiative in 2004 was justified by the huge brain drain that had been taking place in Georgia since the beginning of the 1990s. The then uncontested frontrunner in the presidential elections, Mikheil Saakashvili, announced the dual citizenship initiative during a meeting with leading Georgian entrepreneurs. According to him, around one million Georgians lived abroad, among them many businessmen and well-trained professionals. Thus, favourable conditions had to be created for attracting them back and dual citizenship had to be one of the central mechanisms to achieve this goal.<sup>32</sup> No major opposition to this initiative was expressed by other political groups.

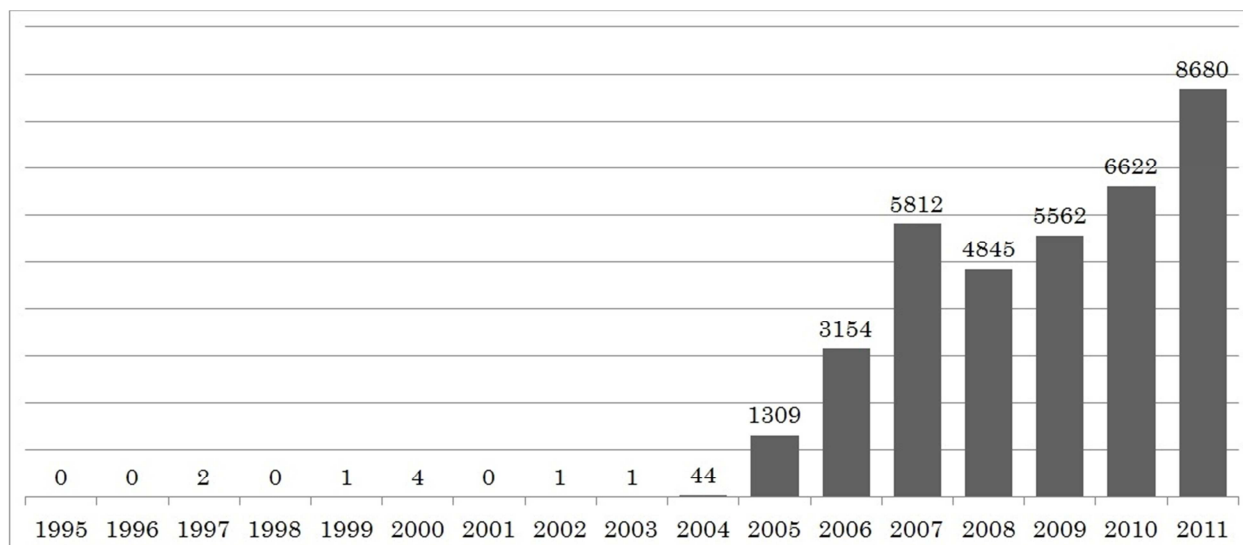
The constitutional amendments and the changes in the law in the beginning of 2004 allowed the Georgian President to grant dual citizenship to foreign citizens when a foreign citizen had made a particular contribution to Georgia or when the granting of citizenship to such a person was in the interests of the State: a French citizen, Ms. Salome Zourabichvili, and a Russian citizen, Mr. Kakha Bendukidze, both ethnic Georgians, became two of the first dual citizens to serve as the Ministers of Foreign Affairs and the Economy, respectively. Simultaneously, the declaration of the president that each Georgian who lived abroad and had foreign citizenship would be given the chance to receive dual citizenship was accompanied by the president's decree on creating a 15-member commission to formulate a legal framework for granting dual citizenship primarily to expatriates who resided abroad.<sup>33</sup>

<sup>31</sup> I. Khashig. Abkhaz Rush for Russian Passports. *Institute for War & Peace Reporting* [Online]. 21 February 2005. Available: <http://iwpr.net/report-news/abkhaz-rush-russian-passports> [Accessed 26 January 2012].

<sup>32</sup> Civil Georgia. Saakashvili vows to secure favorable business climate. *Civil.Ge: Daily News Online* [Online]. 13 December 2003. <http://civil.ge/eng/article.php?id=5809> [Accessed 30 September 2011].

<sup>33</sup> Civil Georgia. Special 'dual citizenship' commission formed. *Civil.Ge: Daily News Online* [Online]. 6 June 2004. <http://civil.ge/eng/article.php?id=7077> [Accessed 22 October 2011].

Figure 3: Number of Individuals Granted Dual Citizenship, by Year



Source: Civil Registry Agency (2012).

The change in policy had dramatic consequences on the number of dual citizens in Georgia. If only 9 persons were granted dual citizenship in the first decade after the approval of citizenship law, this figure reached more than 36,000 for 2004-2011. Although no statistical data on the ethnicity of dual citizenship applications were available, representatives of the Civil Registry Agency (CRA) stated that about one-third of applicants were ethnically non-Georgians. Apparently, citizenship is a privilege and is provided either to ethnic Georgians residing abroad, mostly indicated by their family names, or to mainly Western foreigners with proven links to Georgia (Mühlfried, 2010). Many of the applicants were displaced persons from conflicts in Abkhazia and South Ossetia who had accepted Russian citizenship (Tsilosani, 2011).

The application for dual citizenship includes an open-ended question on the reasons why the applicant desires to obtain Georgian citizenship. In most cases ethnic links and other forms of attachment to Georgia, such as having parents, other relatives or property there, are mentioned as the main motives for aspiring to dual Georgian citizenship (Tsilosani, 2011). According to the interviewees, a smaller part of applicants mentions only business-related interests and simplified tax-related procedures only open to citizens of Georgia. Many of these applicants appeared to have received citizenship of a foreign country, voluntarily withdrawn from Georgian citizenship, and then re-applied for it again (Kratsashvili, 2011).

The amendment of January 2012 to the Presidential Decree of N80 removed the time limit of one week for preparing a conclusion on granting dual citizenship. The same decree also increased the number of questions in the dual citizenship application questionnaire from 14 to 27: more details were required about the material assets of the applicants.<sup>34</sup>

The liberalization of the citizenship regime since 2004 also affected the general requirements that were set for naturalisation. In particular, the permanent residency period required for naturalisation was shortened from 10 to 5 years in December of 2008.<sup>35</sup> The interviews with some active participants of the events indicate that this decision was primarily intended to reduce the number of stateless persons from within Georgia rather than to simplify naturalisation requirements for aliens. Many of those persons who experienced problems in determining their citizenship by the

<sup>34</sup> N. Tarkhnishvili. ცვლილება პრეზიდენტის ბრძანებულებაში და ბიძინა ივანიშვილის მიერ მოქალაქეობის მიღება [Changes in Presidential decree and citizenship of Bidzina Ivanishvili]. *Radio Free Europe: Radio Liberty* [Online]. 9 January 2011 Available: <http://www.tavisupleba.org/content/article/24445962.html> [Accessed 15 January 2011].

<sup>35</sup> Organic law of Georgia on amendments to the Organic Law of Georgia on Citizenship of Georgia, adopted by the Parliament of Georgia on 19 December 2008.

1993 law started to explore the naturalisation option of citizenship acquisition, but also faced difficulties of proving their permanent residency in Georgia for the last 10 years. Stateless persons in Georgia have been mostly ethnic minorities who could not prove that they had lived in Georgia for 5 years before 1993 and were therefore not granted Georgian citizenship, but they also had difficulties proving they had lived in Georgia permanently for 10 years for naturalisation (Tsilosani, 2011). From 2007 one of the main objectives of the UNHCR in Georgia was the large number of stateless persons in the country. Working in close cooperation with the relevant governmental bodies they managed to significantly reduce the number of stateless persons. Yet, by the end of 2011, there were still around 1600 stateless persons, with approximately 4000 still at risk of statelessness.<sup>36</sup> Within this framework the UNHCR also provided technical assistance for the assessment of citizenship law by the experts from 2007 to 2010, some of whose recommendations were apparently taken into account by the decision-makers (Yucer, 2011). Just before the amendments were made, one of the recommendations in the UNHCR report ‘Analysis of Legal Status of Stateless Persons and Legislation Regulating that Issue in Georgia’ was that naturalisation procedures be simplified (Gagnidze, 2008). Figure 2 shows that between 1995 and 2009 there were 995 naturalised persons, whereas since 2009 there have already been 577 persons. The scale of naturalisation still remains only a minor fraction of the new citizens the country acquired through dual citizenship in the same period.<sup>37</sup> A milestone for addressing the problem of statelessness was the decision of Georgia to accede to the 1954 Convention relating to the Status of Stateless Persons, which entered into force on 22 March 2012 and is expected to positively contribute to the reduction of stateless persons.<sup>38</sup>

The changes in citizenship regimes can also be viewed in light of the general framework of fundamental reforms of the Georgian public administration system. In 2004, the Civil Registry Agency (CRA) was created, a self-funding public entity under the Ministry of Justice, which became responsible for citizenship and migration issues, among other tasks. Databases from various agencies were unified online, and more than 400 new employees were recruited with merit-based selection procedures and higher financial incentives (Alam, 2012).

The citizenship-related administrative procedures and timeframes were further simplified after 2009 when, among other changes, the length of granting and withdrawal procedures from citizenship was shortened (Tsilosani, 2011). These developments, along with the described changes in dual citizenship and naturalisation requirements in recent years, indicate the clear trend toward the liberalisation of the citizenship regime in Georgia—a process which would have been inconceivable in the early years of its independence. It is obvious that in the beginning of the 1990s more nationalistic ideas were dominant in the country, while the current policy context is more pragmatic and less concerned with hypothetical dangers (Yucer, 2011). Most of the conducted interviews during the preparation of this report indicate that unlike the debates in 1993, most of those responsible for the recent reforms see little, if any, potential threats stemming from dual citizenship or easier naturalisation rules. As of the end of 2011, most of the individuals who were granted dual citizenship were ethnic Georgians, and their number was less than 1 per cent of the overall population of the country, which might gradually move Georgia effectively into a dual citizenship regime. This trend appears to be supported by most of the actors, but the situation can change in the future if those granted dual citizenship (and to a lesser extent naturalisation) assume a higher proportion of the total population (Khmaladze, 2011).

Last but not least, in the last few years the links between citizenship and politics in Georgia have become more apparent. Between 2006-2008, citizenship was established to more than 22,000 people. As was already mentioned, stateless persons in Georgia are mostly socially excluded ethnic

<sup>36</sup> UNHCR. UNHCR welcomes Georgia's accession to the 1954 Convention Relating to the Status of Stateless Persons. *Press Releases* [Online]. 29 December 2011. Available: <http://www.unhcr.org/4efc8c2d6.html> [Accessed 3 February 2012].

<sup>37</sup> Arguably one of the reasons why not many people naturalized after the reduction of the 5 years residence permit is that granting dual citizenship became very easy, meaning that for those individuals who had other country's citizenship getting dual citizenship became a safer option.

<sup>38</sup> E. Kevanishvili. საქართველო მოქალაქეობის უქონელ პირთა შესახებ გაეროს კონვენციას შეუერთდა [Georgia joined United Nations convention relating to the Status of Stateless Persons]. *Radio Free Europe: Radio Liberty* [Online]. 26 December 2012. Available: <http://www.tavisupleba.org/content/article/24433765.html> [Accessed 30 December 2011].

minorities who would be able to participate in elections once they have citizenship. It has also been known that the ruling political party traditionally received high support from the regions populated by ethnic minorities, with much higher vote shares than the national average during President Shevardnadze's era (Wheatley, 2004) as well as in more recent times (George, 2008).

The dual citizenships granted might also have electoral implications as the number of new citizens increase and they acquire equal rights in regard to voting. More straightforwardly, several controversial cases that shed light on the links between dual citizenship and electoral participation have taken place in recent years. Mr. Alexander Ebraliidze, a Russian-based tycoon of Georgian descent, expressed his intention to run for the Georgian presidency and has attempted to obtain Georgian citizenship since 2009. The government rejected this application without giving reasons for the decision,<sup>39</sup> but in a court appeal the CRA stated the lack of specific merits for Georgia as a reason for dual citizenship refusal.<sup>40</sup> A more extensively covered case regarding dual citizenship took place after Georgian Businessman Mr. Bidzina Ivanishvili announced his intention to enter politics and challenge the ruling political party. After only a few days of this announcement, the authorities declared that Mr. Ivanishvili was deprived of Georgian citizenship because the obtaining of citizenship in another state by a Georgian citizen results in losing Georgian citizenship.<sup>41</sup> Since this case simultaneously concerns the termination of citizenship, granting dual citizenship and naturalisation procedures, it is discussed in more detail in the next section. The chronology of changes to the Organic Law of Georgia on Citizenship of Georgia are given in table 2.

<sup>39</sup> Radio Free Europe. Georgia denies citizenship to presidential hopeful. *Radio Free Europe: Radio Liberty* [Online]. 24 March 2010. [http://www.rferl.org/content/Georgia\\_Denies\\_Citizenship\\_To\\_Presidential\\_Hopeful/1992556.html](http://www.rferl.org/content/Georgia_Denies_Citizenship_To_Presidential_Hopeful/1992556.html) [Accessed 28 November 2011].

<sup>40</sup> 24 Hours. ალექსანდრე ებრალიძე პრეზიდენტს საქართველოს მოქალაქეობას სთხოვს [Alexandre Ebraliidze asks President citizenship of Georgia]. *24 Hours* [Online]. 30 January 2010. Available: <http://24saati.ge/index.php/category/news/2010-01-30/3125> [Accessed 10 January 2012].

<sup>41</sup> Civil Georgia. Civil Registry: Ivanishvili not citizen of Georgia. *Civil.Ge: Daily News Online* [Online]. 11 October 2011. <http://civil.ge/eng/article.php?id=24019> [Accessed 30 October 2011].

Table 2: Chronology of changes to the Organic Law of Georgia on Citizenship of Georgia

| <i>Date of enactment</i> | <i>Type and number of change</i>    | <i>Date of entry into force</i> | <i>Brief content of amendments and additions</i>  |
|--------------------------|-------------------------------------|---------------------------------|---|
| 20-12-2011               | Amendment / №5566-RS                | 01-01-2012                      | Amendment to the Organic Law of Georgia on Citizenship of Georgia related to the administrative fees on citizenship matters   |
| 17-12-2010               | Amendment / №4136-RS                | 27-12-2010                      | Minor amendment to the Organic Law of Georgia on Citizenship of Georgia   |
| 01-10-2010               | Amendments / №3658-IIS              | 26-10-2010                      | Amendments to the Organic Law of Georgia on Citizenship of Georgia reflected procedural and organisational changes  |
| 06-07-2010               | Amendments and additions / №3354-RS | 21-07-2010                      | Additions restricted the right to naturalisation for those individuals to whom granting of a citizenship would be inexpedient from the point of view of state or/and public security  |
| 15-12-2009               | Amendment / №2318-IIS               | 01-01-2010                      | Technical amendment to the Organic Law of Georgia on Citizenship of Georgia   |
| 11-07-2009               | Amendments / №1390-RS               | 18-08-2009                      | Minor amendments to the Organic Law of Georgia on Citizenship of Georgia  |
| 19-12-2008               | Amendments / №802-IIS               | 01-02-2009                      | The most important part of amendments to the Organic Law of Georgia on Citizenship of Georgia was shortening the permanent residency requirement for naturalization from 10 to 5 years  |
| 11-07-2007               | Additions / №5262-RS                | 01-01-2009                      | Additions defined people with a special repatriation status as the only category of individuals for whom the separate naturalisation requirements apply   |
| 28-12-2005               | Amendments / №2622-RS               | 30-01-2006                      | Technical amendments to the Organic Law of Georgia on Citizenship of Georgia  |
| 16-12-2005               | Amendments and additions / №2381-RS | 26-01-2006                      | Additions allowed the Presidents of Georgia in special cases to grant the citizenship of Georgia to foreign citizens without observing the procedures defined by the Organic Law of Georgia on Citizenship of Georgia.  |
| 23-06-2005               | Amendment / №1741-RS                | 15-07-2005                      | Technical amendment to the Organic Law of Georgia on Citizenship of Georgia   |
| 24-06-2004               | Amendments and additions / №182-RS  | 24-06-2004                      | Introduced additions and amendments that allowed the President of Georgia to grant the Citizenship of Georgia to those citizens of foreign countries who have a special merit, or to those to whom the grant of citizenship of Georgia is in the State interest.                  |
| 02-03-2001               | Additions / №777-IIS                | 20-03-2001                      | Minor technical additions to the Organic Law of Georgia on Citizenship of Georgia   |
| 01-10-1997               | Amendments / №893-IS                | 30-10-1997-                     | Amendments were mostly technical, such as the definition of the responsible governmental body for matters related to granting passports to Georgian citizens residing abroad. The 'Law on Citizenship' became the 'Organic Law on Citizenship of Georgia'                         |
| 15-10-1996               | Amendments and additions / №423-IS  | 21-10-1996                      | The term 'Republic of Georgia' in the title and the text was changed to 'Georgia.' The main change was an addition to the Article 3 which allowed to those persons who were born in Georgia but left the country after December 21 1991 still qualify for citizenship acquisition |
| 24-06-1993               | Amendments / №277-IIS               | 24-06-1993                      | Requirements on possession of the documents confirming citizenship within four months after the approval of law for citizenship acquisition was removed, while the time limit for the refusal of citizenship was extended from 3 to 6 months                                      |

Source: Sakartvelos Sakanonmdablo Matsne (2012).



### 3. The Current Citizenship Regime<sup>42</sup>

This section describes basic qualitative and quantitative features of the current citizenship regime in undisputed territory of Georgia, particularly in terms of acquisition and termination of citizenship. The final two subsections deal with the relevant court cases and specific rules and status for certain groups, such as compatriots living abroad and individuals deported from Georgia during the Soviet Union.

#### 3.1. Acquisition of Georgian Citizenship

The main mode of citizenship acquisition in Georgia is citizenship at birth. Although the exact statistics on how many newly born children receive Georgian citizenship was not accessible for this report, it is reasonable to expect that out of 326,100 live births in 2005-2010 (Geostat, 2011), the absolute majority of children became Georgian citizens. This is followed by the number of granted dual citizenships, 27,300 individuals in 2005-2010, which accounts for up to 7.2 per cent of all new citizenship acquisitions.<sup>43</sup> In the same time period, citizenship was established for 25,200 persons, contributing 6.6 per cent of the overall distribution of new citizens. Last but not least, only 886 cases (0.2 per cent) of naturalisation and restoration of citizenship were recorded from 2005-2010 (Civil Registry Agency, 2012). The text below accordingly describes the outlined modes of citizenship acquisition.<sup>44</sup>

#### *Citizenship by birth and change of child's citizenship*

The principle of *ius sanguinis* is a cornerstone of the Georgian citizenship regime. Articles 11 to 15 regulate citizenship acquisition by birth. A child, whose both parents are citizens of Georgia as of the date of the child's birth, is considered to be a citizen of Georgia regardless of the place of birth.<sup>45</sup> A child of a Georgian citizen also becomes a Georgian citizen if one of her/his parents is a foreign citizen and a child is born on the Georgian territory, or a child is born abroad but one of the parents has permanent residence in Georgia, or one of the parents, at the date of a birth of a child, regardless of the place of birth, is a citizen of Georgia and the other is a stateless person or is unknown. Furthermore, when parents have different citizenships, one of which at the date of birth of a child is a citizen of Georgia, and both parents reside outside the territory of Georgia,<sup>46</sup> the question of the child's citizenship is determined by an agreement of the parents, and in the absence of such agreement, by the legislation of the state of birth. Nonetheless, if the parents fail to agree and the state where the birth took place does not recognise the child as its citizen based on the *ius soli* principle, the child faces a risk of becoming stateless. In addition, a child becomes a citizen of Georgia, regardless of the place of the birth, if his or her mother is a stateless person and the recognised father is a citizen of Georgia.<sup>47</sup>

The *ius soli* principle of citizenship acquisition is applied only in two instances: first, when a child of stateless persons is born on the territory of Georgia and their parents reside permanently on the territory of Georgia (Article 13), and second, if a child is present on the territory of Georgia and both of the parents are unknown, unless the contrary is established (Article 15). The law does not regulate the citizenship of a child born to stateless parents who temporarily reside in Georgia.

<sup>42</sup> This section was prepared with the kind assistance of Sergo Mananashvili from the Robert Schuman Centre for Advanced Studies.

<sup>43</sup> For calculating these figures we assume that live births are granted Georgian citizenship which consequently slightly deflate the shares of other modes of citizenship acquisition.

<sup>44</sup> Although other circumstances indicated in the Organic law of Georgia on Citizenship of Georgia and international agreements signed by Georgia is one of the modes of citizenship acquisition in Georgia, no information was available on how this regulation works in practice.

<sup>45</sup> Art. 11 of the Organic Law On Citizenship of Georgia.

<sup>46</sup> This clause in the law presumably implies temporary residence as permanent residency is regulated by conditions described earlier in the paragraph.

<sup>47</sup> Art. 12 of the Organic Law On Citizenship of Georgia.

Although according to Article 14 of the law the matter of the citizenship of a child born in the territory of Georgia whose parents are citizens of another country is decided by the legislation of the relevant state, the Georgian Law on Citizenship does not define what happens if the referred country refuses to grant citizenship to such a child. This issue becomes particularly relevant as the number of children born by means of surrogacy to alien biological parents is increasing (Rimple, 2006). Georgia does not differentiate a child born through surrogacy from other children, while some countries, whose citizens decide to have a child in Georgia through surrogacy, do not grant citizenship to such a child.<sup>48</sup> Consequently, Georgia considers the child a citizen of another state, and the issued birth certificate associates the parents' country with the child's citizenship, but in fact he or she becomes stateless.<sup>49</sup>

The maintenance and acquisition of Georgian citizenship after the birth of a child is also related to changes in the citizenship of his or her parents. Where one of the parents becomes a Georgian citizen, a child retains citizenship if he or she remains a resident in the territory of Georgia.<sup>50</sup> The child's citizenship is not terminated when one of the parents withdraws or loses Georgian citizenship (Article 17). A child also becomes a citizen of Georgia when either parent acquires citizenship in Georgia and the other remains a stateless person (Article 18). Concerning adoption practices, a child may retain Georgian citizenship if adopted by foreign citizens or spouses, one of whom is a citizen of Georgia while the other has different citizenship. At the same time, a child remains a citizen of Georgia if he or she is adopted by stateless persons or spouses, one of whom is a citizen of Georgia and the other stateless person (Article 21). Finally, a child who is not a citizen of Georgia and who was adopted by citizen(s) of Georgia or by spouses either of whom is a citizen of Georgia may become a citizen of Georgia (Article 20). It has to be mentioned that articles regulating citizenship by birth or change of a child's citizenship after their birth have experienced little, if any, change since the adoption of the law in 1993.

### ***Dual citizenship***

Since 2004 the granting of dual citizenship to foreign citizens has become one of the major modes of citizenship acquisition in Georgia. According to Article 12 of the Constitution of Georgia, a citizen of Georgia is not allowed to have citizenship of another country except when a foreign citizen has made a particular contribution to Georgia or the granting of citizenship to such a person is in the interests of the State.<sup>51</sup> The legal framework does not define what qualifies as a particular contribution or what are the interests of the State, but the existence of such circumstances are regulated by the Presidential Decree<sup>52</sup> and studied by the members of the Commission on Citizenship Issues appointed by the head of CRA. Art. 5 (5<sup>1</sup>) of the decree states that the members of the Commission rely on 'inner convictions' in contemplating the grounds for granting dual citizenship, which leaves these decisions dependent upon a high level of discretion.<sup>53</sup> Along with the basic application documents for dual citizenship, a foreign citizen should submit at least two references from Georgian citizens or legal persons registered in Georgia,<sup>54</sup> but no references are required for the naturalization procedure. The applicants are allowed to communicate with CRA online if there is a possibility of visual communication with an applicant. The CRA studies the applicant's political and legal links with the Georgian State. Simultaneously, if his or her Georgian citizenship is confirmed, the agency prepares a joint motion on the simultaneous loss and acquisition of Georgian citizenship.<sup>55</sup> After the grounds for

<sup>48</sup> Seven cases of this type have been reported to the author during the interviews conducted at the UNHCR and apparently in some instances Georgian citizenship was granted to these children. Granting citizenship even further complicated the problem for the biological parents (Yucer, 2011).

<sup>49</sup> Nevertheless, a birth certificate issued by CRA declares parents' states as the child's citizenship.

<sup>50</sup> Art. 17 of the Organic Law On Citizenship of Georgia.

<sup>51</sup> Art. 12, *ibid*.

<sup>52</sup> The Decree of the President of Georgia #80 on the Rules of Granting a Citizenship of Georgia to Citizens of Foreign Countries, issued on 26 January 2006.

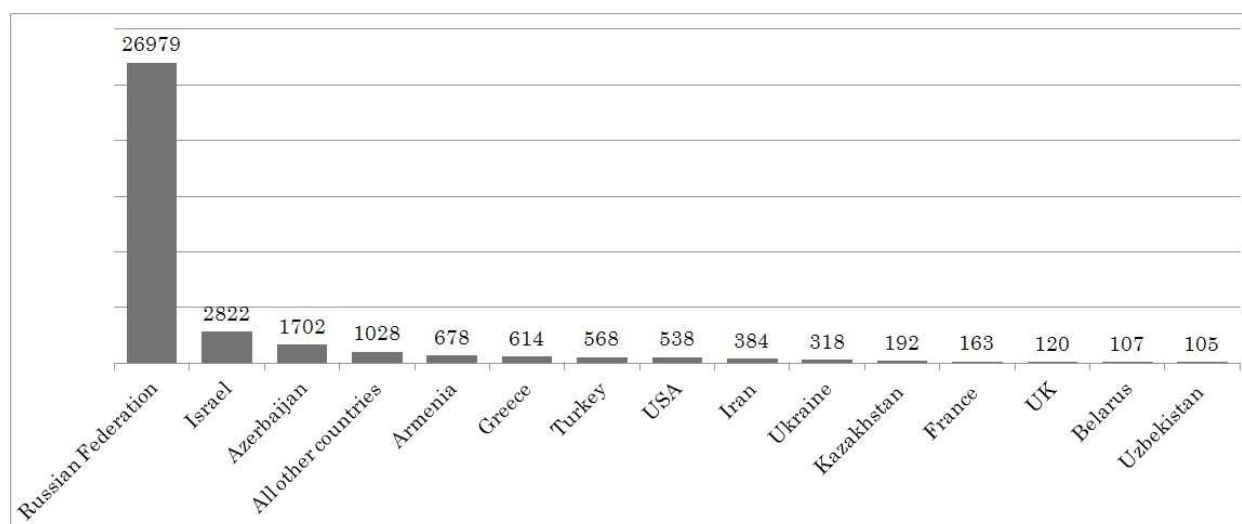
<sup>53</sup> The Presidential decree also states that the members of the Committee should follow the Joint Decree of the Ministers of Internal Affairs and Justice.

<sup>54</sup> Art. 5 of the Decree of the President of Georgia №80.

<sup>55</sup> Art. 5 (2), *ibid*.

granting citizenship are established, the motion is sent to the Office of Citizenship, State Awards and Protection at the President's Administration, which prepares a draft resolution and transfers it to the President, who in turn makes the final decision on the issue. If an applicant, a foreign citizen, turns out to be already a citizen of Georgia, which is not allowed by the law, then Georgian citizenship is also terminated by the President's resolution. Before acquiring citizenship, the applicant has to sign a loyalty oath. The entire process should not take more than three months after the application is submitted, and in the case of refusal, an applicant can reapply for citizenship after six months.<sup>56</sup>

Figure 4: Number of granted dual citizenships according to citizenship of applications in 2004-2011



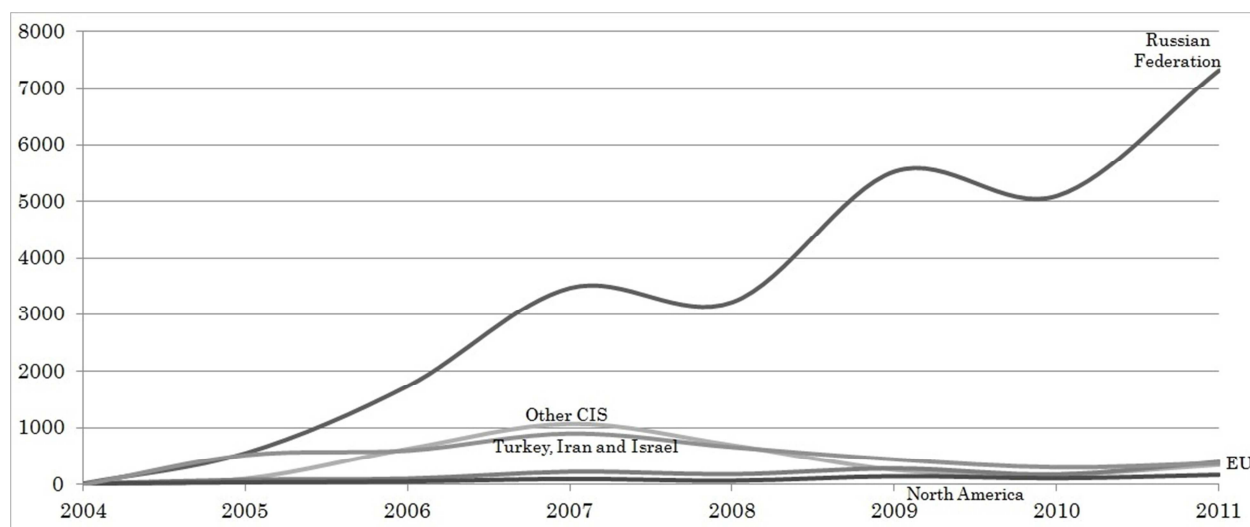
Source: Civil Registry Agency (2012).

In the pool of applications for dual citizenship, persons from countries of the former Soviet Union states are a majority. The citizens of the Russian Federation received about 75 per cent of all granted citizenships from 2004-2011 (see figure 4). This is followed by Israel, Azerbaijan and Armenia. The only three countries from the EU among the top 14 are Greece, France and the UK. It is interesting that the number of granted citizenships has only been steadily increasing for Russian Federation citizens; for other countries of the Commonwealth of Independent States (CIS), and Turkey, Iran and Israel taken together, the year with the highest number of granted citizenships was 2007, while granted citizenship for EU and North American applications remained low and did not change much during the 2004-2011 period. The 2006 and 2007 statistics reflect the call for return made by the Georgian government to thousands of Georgians living in Russia, after confrontation between the two states escalated in 2006 and the Ministry of Foreign Affairs was instructed to maximally simplify the rules of granting Georgian citizenship to these expatriates.<sup>57</sup> In 2008, the year when war erupted between Russia and Georgia over Georgia's separatist territories, granted citizenships decreased for all country groups, especially for the Russian Federation. Overall, the predominance of Russian citizenship on the one hand could be seen as an attempt to retrieve Georgian citizens in response to the Russian passportisation policies in Abkhazia and South Ossetia, or on the other hand Russia is arguably the main destination of Georgian emigrants and this might explain the observed tendencies. Although an exact number of refused citizenship applications for the entire 2004-2011 period was not available, our interviewees indicated that most of the applicants are granted citizenship (Kordzaia, 2011). However, CRA data for 2011 indicate that 1545 dual citizenship applications were refused, while 333 applications could not be processed in the same year (Civil Registry Agency, 2012).

<sup>56</sup> Art. 8 and 9, *ibid*.

<sup>57</sup> Civil Georgia. Saakashvili calls on Georgian expatriates to return. *Civil.Ge: Daily News Online* [Online]. 14 October 2006. Available: <http://www.civil.ge/eng/article.php?id=13868> [Accessed 9 December 2011].

Figure 5: Annual Number of Dual Citizenship Recipients in Georgia in 2004-2011, by Main Countries of Origin



Source: Civil Registry Agency (2012).

Many Georgian citizens believe that by acquiring foreign citizenship they automatically became dual citizens of Georgia (Kratsashvili, 2011). In reality however, they are required to withdraw from Georgian citizenship and then to reapply for dual citizenship. The latter procedure, while though not explicitly stated in the law, but as the intent of the law followed in practice, entails the loss of Georgian citizenship. In most cases, the Georgian authorities either cannot or are not taking concrete steps to find out whether or not Georgian citizens were granted citizenship by other states. The interviewees at the CRA indicated that although dual citizenship became the main pillar of the existing citizenship regime, consuming most of the resources allocated to the agency, this area of citizenship acquisition is still inadequately regulated by the current legislative framework, and many aspects remain ambiguous both to the public and to the implementers of the policy (Amisulashvili, 2011). The Georgian legislation does not specify particular electoral or other rights for dual citizens, which by default grants them the same rights that are possessed by other citizens.

Among other issues, it is unclear how the various provisions of the law should be regulated – such as the conditions of extradition or the citizenship of a child of dual citizens – or how the acquisition of a third or any additional number of citizenships affects dual citizenship granted by Georgia. The military obligation in cases of multiple citizenships is one of the issues yet to be defined by Georgian legislation.<sup>58</sup> The Georgian Law on Military Obligations and Military Service makes military service mandatory for Georgian nationals between 18-27 years old.<sup>59</sup> Hence it can be assumed that foreign citizens who hold Georgian citizenship are also obliged to fulfil military service in Georgia, in line with other Georgian citizens. This clearly contradicts the principle of the European Convention on Nationality, which prohibits fulfilment of military service in two or more countries (Papuashvili, 2008). The situation is particularly sensitive because Georgia's dual citizens, as was shown above, primarily hold Russian Federation citizenship, the state with which Georgia has unresolved territorial disputes. Several interviewees also indicated that the relative simplicity of dual citizenship application procedures affects other modes of citizenship acquisition, such as naturalisation and determination of citizenship of Georgia (Yucer, 2011).

### ***Establishment and restoration of Georgian Citizenship***

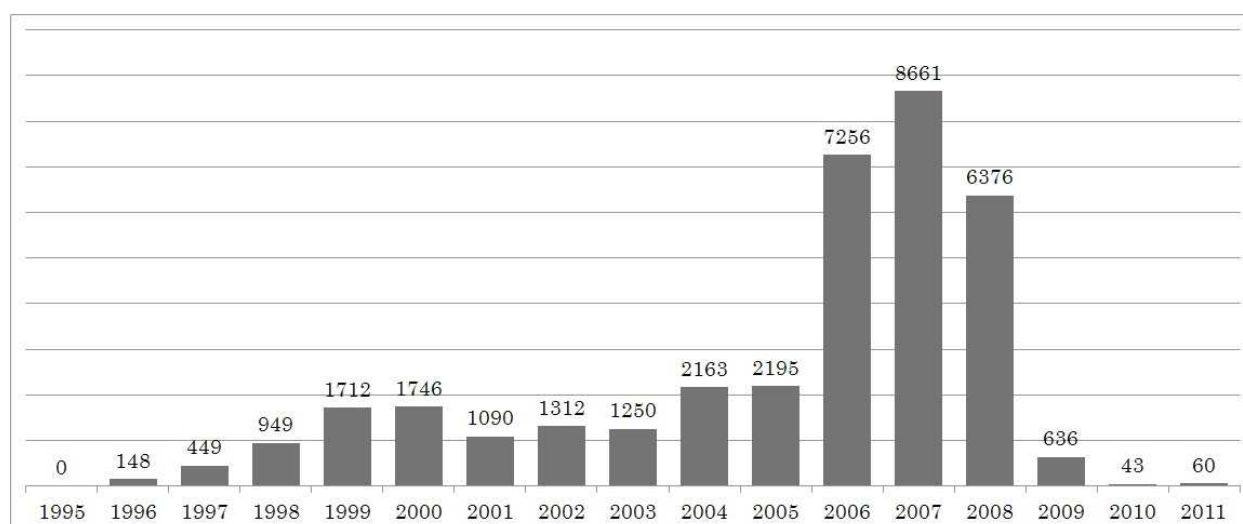
Georgian citizens could become either those persons who permanently resided in Georgia for no less than 5 years on the day of enactment of the Law on Citizenship on 25 March 1993, if they did not

<sup>58</sup> Internationally it has been recommended to settle this issue with those countries with whom dual citizenship occurs, but no such cases have occurred in Georgia yet (Kikvidze, 2011).

<sup>59</sup> Art. 9, the Law of Georgia On Military Obligations and Military Service, adopted on 17 September 1997.

refuse Citizenship of Georgia in writing for the period of six months, or those who were born in Georgia and left the territory of Georgia after 21 December 1991, if they do not have citizenship in another country.<sup>60</sup> This article was expected to be valid for a short period of time, but after almost two decades, it is still relevant for those whose Georgian citizenship could not be established.<sup>61</sup> For a tiny fraction of the country residents, the clause on establishment/determination of citizenship prevents them acquiring citizenship. The majority of people who need to ascertain their Georgian citizenship mainly belong to socioeconomically excluded groups of the population, who have been residing in and most likely have never left various parts of Georgia (Gagnidze, 2008). The main problem with these requirements is that many of those who wish to ascertain their Georgian citizenship did not have stamps in their passports on residency in Georgia prior to 1993, do not possess any of the required documents, or the documents presented by them are not sufficient to prove that they lived in Georgia on 25 March 1993, or lived in the country for at least 5 years before that date, while some of this information was lost in the governmental archives.<sup>62</sup> The condition of refusal to accept Georgian citizenship within 6 months after the publication of the Law is less problematic, as the Ministry of Justice of Georgia maintains a database of the individuals who refused to accept Georgian citizenship within 6 months after the adoption of the Law (Ibid). Figure 6 shows the number of established citizenships in 1995-2011.

Figure 6: Establishing citizenship, number of individuals



Source: Civil Registry Agency (2012).

If a person wishing to ascertain his or her Georgian citizenship did not permanently reside in Georgia for 5 years or more on 25 March 1993, a citizenship may be ascertained by proving that he or she was born in Georgia, left the country after 21 December 1991 and did not acquire citizenship in another country.<sup>63</sup> Confirmation of these circumstances is no less problematic because often such persons do not have birth certificates showing that the bearer was born in Georgia, and if they do, the absence of other documentation indicating that individual resided in Georgia or left the territory of the country prevents the establishment of citizenship.<sup>64</sup> Persons wishing the establishment of their

<sup>60</sup> Art. 3 of the Organic Law On Citizenship of Georgia.

<sup>61</sup> In order to facilitate the process of establishment of citizenship in the country, according to decree #452 of the Georgian Government dated 10 June 1993, temporary citizenship commissions working together with government bodies were created.

<sup>62</sup> In terms of practical procedures, 9 November 1998 decree №637 of the Georgian President 'Approving the Regulations on Reviewing and Resolving the Issues Concerning Georgian Citizenship' defines the list of documents that an applicant must present to the Ministry of Justice in order to prove the existence of the described conditions.

<sup>63</sup> Law of Georgia on amendments and additions to the Law of the Republic of Georgia on Citizenship of Georgia, adopted 15 October 1996.

<sup>64</sup> In order to confirm the circumstances indicated in that paragraph the applicant must present the following documents to the corresponding body: birth certificate showing that he or she was born in Georgia or any ID that indicates the place of

Georgian citizenship can apply to court in order to ascertain the fact of living, studying or working in Georgian territory before 1993, which would consequently enable them to establish their Georgian citizenship, but this is a costly process for many stateless and disadvantaged individuals (ibid). On the other hand, such people can apply for Georgian citizenship through naturalisation in the capacity of stateless persons. In that case, applicants, among other requirements, must prove that they have permanently lived in Georgia for the last 5 years and possess economic links with the country. Meeting these conditions for persons who cannot satisfy the criteria used for ascertaining their Georgian citizenship is no less complicated.

Another mode of citizenship acquisition is the restoration of Georgian citizenship for persons whose citizenship has been terminated as a result of illegal deprivation of citizenship, renunciation of citizenship or the parents' choice.<sup>65</sup> The number of restored citizenships in 1995-2011 only amounted to 208, among which about a half of the cases came in 2011. Generally, restoration is sought by people who intended to obtain citizenship of another country after withdrawal from Georgian citizenship but were not able to do so.

### *Naturalisation*

Foreign nationals or stateless persons can acquire Georgian citizenship through naturalisation if they permanently resided on Georgian territory during the last 5 years, know the state language, legislation and history within the established limits, and have either a job, real estate, are engaged in entrepreneurial activities in the territory of Georgia, or have shares in a Georgian enterprise.<sup>66</sup> Taking into account the fact that a residence permit and corresponding residence certificate are the documents enabling aliens to live in Georgia, it should not be difficult for foreign nationals to prove that they have been living in Georgia for the last 5 years on a permanent basis (Gagnidze, 2008). One of the reasons why only a small number of individuals were granted Georgian citizenship is that a 10-year residence requirement was in place until 2008, while the number of immigrants in the 1990s was negligible, and they only started to qualify for citizenship in the 2000s (Khmaladze, 2011). In addition, in order for an applicant to receive Georgian citizenship, he or she needs to renounce the citizenship of another State. In particular, in the naturalisation application form, an applicant signs a pledge that in case of receiving Georgian citizenship, he or she will withdraw from the citizenship of another country.<sup>67</sup> Meeting another criterion mentioned in the law – having economic links with the Georgian state – might be demanding for stateless persons who could not ascertain their Georgian citizenship. Due to the simplicity of procuring the documents necessary for dual citizenship and the general ease with which Georgian citizenship is usually granted by the President of Georgia, foreign nationals, unless they want to withdraw from their first citizenship are less likely to use naturalisation for the acquisition of Georgian citizenship. Although it is not clear how 1572 naturalisation cases in 1995-2011 were distributed between stateless individuals and persons with foreign citizenship, it is reasonable to assume that naturalisation at present predominantly concerns stateless persons.

The State Commission on Migration and Citizenship of the Ministry of Justice assesses how well applicants' knowledge of Georgian language, legislation and history corresponds with the established requirement. This is done by designing standardised tests which are periodically updated and can be taken across the country, in the territorial units of CRA (Odisharia, 2011). The knowledge of the state language is examined by the permanent citizenship committee, which defines the obligatory minimal requirements during the test. In order for a person to successfully pass the language exam, he or she must be able to talk about basic subjects such as 'my family,' 'my activity,' 'Georgia,' or if the committee agrees, about any other topic in the Georgian language. Besides, the

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birth; old Soviet passport, which includes data on the bearer's registration at concrete address, military discharge document, service record, reference from the place of work, school certificate, diploma, document showing the registration of the person according to the concrete address and/or any other documents that would prove that the person lived in Georgia before December 21, 1991 and/or left Georgia after that date.

<sup>65</sup> Art. 29 of the Organic Law On Citizenship of Georgia.

<sup>66</sup> Art. 26 of the Organic Law On Citizenship of Georgia.

<sup>67</sup> Presidential order №34 on the approval of statute of the rules of Consideration of the application and proposition on matters related to citizenship of Georgia, approved 30 January, 2009.

applicant must be able to write a short life history in Georgian. As for legislation and history of Georgia, the applicant must successfully pass the corresponding tests, which include 15 questions for each subject.<sup>68</sup> During testing, the committee can ask additional questions to the applicant and decide whether the applicant's level of knowledge is sufficient according to existing requirements (Kordzaia, 2008). On the judicial part, most of the questions come from the Constitution of Georgia, while the questions on history ask about events such as the adoption of Christianity as a state religion and the name of the first ruler of the unified Georgian kingdom. The interviewees at the CRA indicated that no literature or references are provided for those who are required to pass the examination and that about 20 per cent of applicants fail the test. In case of failure, the committee is authorized to arrange another test, which must be held at least 3 months after the initial exam. Out of the existing 15 questions in each separate area of history, language and law, an applicant had to score 10 right answers, but in 2011, this number was decreased to 8, which slightly improved the applicants' chance of naturalisation (Gachechiladze, 2011).

Those who are married to Georgian citizens and have been residing in the territory of Georgia together with their spouses during the last two years may be granted citizenship in Georgia, provided they know the state language, legislation and history of Georgia within the established limits.<sup>69</sup>

### **3.2. Termination of the Citizenship of Georgia**

The two main grounds leading to the termination of citizenship in Georgia are withdrawal from Georgian citizenship and loss of Georgian citizenship. Other grounds envisaged by the international agreements of Georgia and the Organic Law of Georgia only account for a marginal share in all cases of terminated citizenship. This section also describes high profile court cases on loss of Georgian citizenship.

#### ***Withdrawal from and loss of citizenship in Georgia***

Figure 7 shows statistics on the withdrawal from and loss of citizenship in Georgia during the 1995-2011 period. It is noticeable that before 2005 the number of withdrawals exceeded the number of losses, but the number of lost citizenships was consistently higher thereafter. Georgian citizens have the right to renounce and withdraw from citizenship, however the citizens may be prevented from exercising this right if they have not served the obligatory military service, are convicted or otherwise required not to leave Georgian citizenship by the decision of the court.<sup>70</sup> A decision of the President on withdrawal from citizenship in Georgia is enacted only after the Agency, or the Ministry of Foreign Affairs receives a document verifying the person's acceptance or guarantee of future acceptance of the citizenship of another State.<sup>71</sup> This regulation serves to prevent statelessness and reflects the principle of the international conventions on protecting the person from statelessness after withdrawal from citizenship (Biganishvili, 2010). No exact information is available on the reasons why individuals abandon their Georgian citizenship, but the most prevalent motivation seems to be the application for citizenship in those countries which do not tolerate dual citizenship (Yucer, 2011). Nonetheless, the same individuals, once they become the citizens of other states, as described above, can obtain Georgian citizenship through the dual citizenship provision (Tsilosani, 2011). This might be the main explanation why the number of withdrawals surged since 2004, after the dual citizenship policy was introduced. Still, the correlation between the dynamics of voluntary withdrawals from Georgian citizenship and the number of new dual citizens was positive but not very strong between

<sup>68</sup> 18 January 2001 №26 decree by Georgian Minister of Justice on approval of the Make-up and Statutes of the Permanent Citizenship Committee Working at the Ministry of Justice of Georgia.

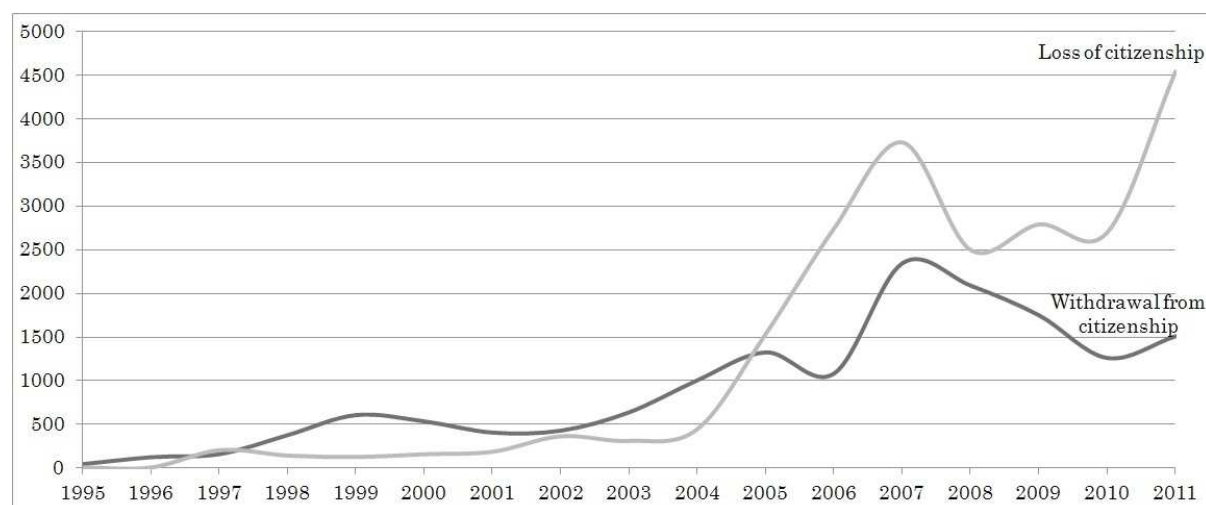
<sup>69</sup> Art. 28, Organic Law On Citizenship of Georgia.

<sup>70</sup> Art. 31 of the Organic Law On Citizenship of Georgia.  
Art. 31 of the Organic Law On Citizenship of Georgia.



2004-2011,<sup>72</sup> which might suggest that many of those who abandon Georgian citizenship do not immediately reapply for it.

Figure 7: Termination of Georgian citizenship, number of individuals



Source: Civil Registry Agency (2012).

The main grounds of loss of Georgian citizenship are receiving the citizenship of another country, entering into the military service, police, judicial or other governmental authorities of a foreign country without any authorisation of Georgian competent bodies, or permanently residing in another country and failing to register with the consulate of Georgia for 2 years without any excusable cause.<sup>73</sup> The emergence of one of those circumstances does not automatically envisage loss of Georgian citizenship but rather the President of Georgia makes the final decision based on a review prepared by the CRA.<sup>74</sup> Although no statistics of separate grounds of loss of citizenship was accessible for this study, based on the interviews conducted it appears that possession of citizenship of another country is the main cause for termination of the citizenship of Georgia. As in the case of withdrawals, the surge in the number of lost citizenships radically accelerated after 2004, when granting dual citizenship was introduced. In fact, the correlation between the number of lost and granted dual citizenships is exceptionally high.<sup>75</sup> This might indicate that the majority of dual citizenship recipients were Georgian citizens before acquiring a new citizenship, but until the dual citizenship policy was introduced, failed to notify the Georgian authorities. Taking into account that quite a large number of Georgian citizens have been illegally living in various countries, while others most likely did not realise the necessity of notifying the Georgian authorities about their stay, it becomes understandable why many avoided formal registration at the Georgian consulates. The fact that some individuals possess foreign citizenship is mostly revealed when these citizens have to engage with the authorities in some form of administrative procedures (Kratsashvili, 2011). Though the scale of citizenship loss from serving in foreign security and military agencies is unclear, it is assumed to be a minor share of all lost citizenships.

An illustrative example is the 2002 court case when a plaintiff appealed to the Georgian Supreme Court to annul the Georgian President's decree on termination of his citizenship. The court ruled that the fact that the appellant worked in the Azerbaijani Ministry of Internal Affairs was

<sup>72</sup> In fact, standard statistical correlation between the number of withdrawals and granted dual citizenship is 0.46, with 1.00 being an absolute correlation between these two trends.

<sup>73</sup> Art. 32, Organic Law On Citizenship of Georgia. The law also defines acquisition of Georgian citizenship through false documents as grounds for losing citizenship.

<sup>74</sup> More detailed discussion on the procedures relating to loss of citizenship is given in the following subsection on the court rulings.

<sup>75</sup> The standard statistical correlation between granted and deprived citizenships in 2004-2011 is 0.92.



sufficient reason for termination of his Georgian citizenship and did not accept the appellant's argument about him being dispatched to Azerbaijan by the Georgian Ministry of Internal Affairs.<sup>76</sup>

### ***Court Rulings on loss of citizenship and related developments***

The loss of citizenship has recently become the most discussed aspect of the citizenship regime in Georgia, and hence this subsection provides more details on formal procedures and two court cases on the issue. The Law on Citizenship prescribes a special procedure for the loss of citizenship and requires bringing a proposition to the CRA on losing citizenship of Georgia by the Court, Public Prosecutor's Office, Ministry of Internal Affairs and Ministry of Foreign Affairs, while a proposition on losing citizenship of Georgia against residents of foreign states should be brought by the appropriate diplomatic representations and consulate departments (Article 35). The Agency reviews and prepares decisions on applications and propositions on issues regarding Georgian citizenship and transfers all documentation to the President of Georgia, who makes the final decision (Article 37). In this context, an illustrative court case was the ruling made in 2003 by the Chamber of Administrative and Other Cases of the Georgian Supreme Court.<sup>77</sup> The plaintiff disputed the cancellation of the registration of his candidacy for parliamentary elections by the officials at the Central Election Commission (CEC), who argued that Mr. Giorgi Chakhvadze could not be a candidate because he became a citizen of Ukraine. However, the plaintiff demanded annulment of the CEC's decision because the relevant governmental bodies did not apply to the Ministry of Justice with a required proposition on cancellation of his citizenship and neither had the Ministry of Justice reviewed the case and forwarded it to the President of Georgia for a final decision. Therefore, according to the plaintiff, when the CEC was making its decision, the parliamentary candidate Mr. Giorgi Chakhvadze was a Georgian citizen because he did not lose his citizenship based on the prescribed procedures. The Court decided to satisfy the plaintiff's claim and set a precedent on the fulfilment of procedures of the termination of Georgian citizenship (Kordzaia, 2008).

Probably the most widely discussed case is the citizenship of Mr. Bidzina Ivanishvili, a Georgian politician and businessman. In October 2011, along with his announcement of entering politics, Mr. Ivanishvili also declared that he had the citizenships of France and the Russian Federation and was going to withdraw from both of them in the near future.<sup>78</sup> In a few days, the CRA issued a statement that it had studied the issue and concluded that after acquiring Georgian citizenship in 2004, Mr. Ivanishvili also obtained citizenship of France,<sup>79</sup> which was sufficient reason to terminate his citizenship by the order of the President.<sup>80</sup> This case raised procedural and substantive controversies. By not notifying Mr. Ivanishvili that the procedure on terminating his citizenship was initiated, the Agency did not enable him to present his opinion, as required by the General Administrative Code of Georgia;<sup>81</sup> neither did the CRA provide time for Mr. Ivanishvili's withdrawal from the French and Russian citizenships, as promised in his open letter. On more substantive issues, it has been argued that the restriction which prohibits a Georgian citizen from being a citizen of another country applies only to a person who has obtained Georgian citizenship by birth or naturalisation, and it does not apply to a citizen of another country who obtained Georgian citizenship by being granted Georgian citizenship.<sup>82</sup> The Constitution of Georgia and the Organic Law on Citizenship do not specify that after being granted a Georgian citizenship, the person is prohibited from obtaining another country's citizenship. The right of such a person to have Georgian citizenship

<sup>76</sup> March 26, 2002 №3g-ad-9-01 ruling of the Georgian Supreme Court's Chamber of Administrative and Other Cases.

<sup>77</sup> Ruling №b- 1036-36-03 by Georgian Supreme Court's Chamber of Administrative and Other Cases dated 11 November 2003.

<sup>78</sup> Civil Georgia. Written Statement of Bidzina Ivanishvili. *Civil.Ge: Daily News Online* [Online]. 7 October 2011. Available: <http://civil.ge/eng/article.php?id=24006> [Accessed 7 October 2011].

<sup>79</sup> Civil Georgia. Civil Registry: Ivanishvili not citizen of Georgia. *Civil.Ge: Daily News Online* [Online]. 11 October 2011. Available: <http://civil.ge/eng/article.php?id=24019> [Accessed 30 October 2011].

<sup>80</sup> President's decree №602, 11 October 2011.

<sup>81</sup> Art. 13, the General Administrative Code of Georgia, approved 25 June 1999.

<sup>82</sup> Democracy and Freedom Watch. Legal review of the case of Bidzina Ivanishvili and Ekaterine Khvedelidze. 5 November 2011. Available: <http://dfwatch.net/legal-review-of-the-case-of-bidzina-ivanishvili-and-ekaterine-khvedelidze-56712> [Accessed 24 January 2012].

along with another country's citizenship does not necessarily depend on the fact that after having being granted Georgian citizenship the person obtains one or more countries' citizenships.<sup>83</sup>

Mr. Ivanishvili appealed to the court to annul the President's order on termination of his citizenship and also requested the withholding of the administrative act that deprived him of his citizenship. The court ruled that the President's order was legal and, by that, set a precedent that obtaining additional citizenship after already having dual citizenship leads to the loss of Georgian citizenship.<sup>84</sup> As of March 2012, the case was still in court after the plaintiff appealed this decision. In parallel, the lawyers of Mr. Ivanishvili decided to seek Georgian citizenship for their client through naturalisation and on 5 January 2012 filed an application to the CRA. As naturalisation requires that an applicant does not hold citizenship of another state before the Georgian citizenship is granted, Mr. Ivanishvili withdrew from citizenship of the Russian Federation and obtained a guarantee that his French citizenship would be revoked if gaining of Georgian citizenship was ensured.<sup>85</sup> On 4 April 2012, the CRA issued a statement in which it denied Mr. Bidzina Ivanishvili the right to obtain citizenship through naturalisation. The statement explained that individuals who currently are citizens of another country can apply for dual citizenship according to Georgian legislation, while the option of citizenship acquisition through naturalisation is left to stateless persons.<sup>86</sup> This statement contradicted the explicit understanding of the existing regulations of naturalisation in Georgia, which do not restrict foreign citizens' right to apply for naturalisation if they meet the criteria for granting citizenship of Georgia. This is demonstrated in the presidential order, which obliges the CRA to explain to an applicant the necessity of withdrawal from the other state's citizenship during the acquisition of citizenship of Georgia, while the application form for naturalisation requires indication of the current citizenship of an applicant, as well as signing the pledge on withdrawal from this citizenship when Georgian citizenship is granted.<sup>87</sup> Not only was the decision to not allow Mr. Ivanishvili to naturalise controversial in legal terms, it was also against popular opinion. In a nationally representative survey conducted in March, 70 per cent of respondents who were aware of the case supported Mr. Ivanishvili's Georgian citizenship (Navarro & Woodward, 2012).

### 3.3. Specific rules and status for certain groups

The legislation formally guarantees the equality and protection of the rights and lawful interests of individuals once they become citizens of Georgia,<sup>88</sup> but there are a few specific rules of citizenship acquisition designed for certain individuals and social groups.

The President of Georgia is also entitled to grant citizenship to persons who do not meet any requirements of naturalisation if these persons have made a special contribution to Georgia or mankind with their scientific or social activity, or if they possess special professions or qualifications which are of interest for Georgia, or granting of citizenship to them falls under the interests of the state (Article 27 of the Law Citizenship). No statistical data on the number of those who acquired citizenship acquisition under the two described provisions was available for this report, but it is

<sup>83</sup> L. Kunchulia. Bidzina Ivanishvili was stripped of Georgian citizenship *Radio Free Europe: Radio Liberty* [Online]. 11 October 2011 Available: <http://www.tavisupleba.org/content/article/24356704.html> [Accessed 12 October 2011].

<sup>84</sup> Simultaneously, the decision was made to terminate a Georgian citizenship of Mr. Ivanishvili's spouse, Ms. Ekaterine Khvedelidze, who already had both Russian and French citizenships when she was granted the Georgian citizenship. By the decision of the court citizenship of Ms. Khvedelidze was restored.

<sup>85</sup> N. Tarkhnishvili. ცვლილება პრეზიდენტის ბრძანებულებაში და ბიძინა ივანიშვილის მიერ მოქალაქეობის მიღება [Changes in Presidential decree and citizenship of Bidzina Ivanishvili]. *Radio Free Europe: Radio Liberty* [Online]. 9 January 2011 Available: <http://www.tavisupleba.org/content/article/24356704.html> [Accessed 15 January 2012].

<sup>86</sup> CRA. ბიძინა ივანიშვილმა მოქალაქეობის მისაღებად ორმაგი მოქალაქეობის მინიჭების პროცედურას უნდა მიმართოს [Bidzina Ivanishvili has to request Georgian citizenship through dual-citizenship procedures]. CRA News [Online]. 4 April 2012. Available: [http://cra.gov.ge/index.php?lang\\_id=GEO&sec\\_id=49&info\\_id=2039](http://cra.gov.ge/index.php?lang_id=GEO&sec_id=49&info_id=2039) [Accessed 5 April 2012].

<sup>87</sup> Art. 11 (2), Presidential order №34 on the approval of statute of the rules of Consideration of the application and proposition on matters related to citizenship of Georgia, approved 30 January, 2009.

<sup>88</sup> Art. 4 and 6, Organic Law On Citizenship of Georgia.

reasonable to expect that these cases are rare, as the overall level of naturalisation was consistently low in the 1995-2001 period.

Quantitatively, a much more substantial matter is the specific rules designed and contemplated for ethnic kin minorities or other groups related to Georgia and their descendants dispersed across various countries in past centuries.

The latest development in this regard is the approval of a new law on Diaspora Organisations and Compatriots Living Abroad by the Parliament of Georgia.<sup>89</sup> The declared explanation of the law was that it has a symbolic meaning for maintaining 'legal linkage' with those people who live abroad and have some form of attachment with Georgia. The law also appears to apply to the descendants of those who have been resettled from Georgia in the seventeenth century and currently mostly reside in the central part of Iran, as well as to people of Georgian origin currently living in the north-eastern part of Turkey.<sup>90</sup> At the same time, the law explicitly states that policy toward compatriots living abroad is based on the main principles and norms of international law, such as the non-interference in domestic affairs of foreign countries and the protection of human rights and freedoms.<sup>91</sup> The status of a compatriot living abroad might be granted to a Georgian citizen living permanently abroad, or a citizen of another State who is of Georgian descent stretching for up to five generations, or is related to one of the ethnic groups living on the territory of Georgia, or whose native language belongs to the Kartvelian-Caucasian language group. The law provides for the right to represent Georgia in international sport competitions, to enter and stay in Georgia for 30 days, to utilise preferential fees for applications related to Georgian citizenship, and to receive state grants for secondary and higher education in Georgia.<sup>92</sup> Although the law falls short in regulating citizenship matters, it has been speculated as an intermediate stage before the simplification of citizenship acquisition of the same target population takes place.<sup>93</sup> Nevertheless, at the moment of writing of this report no facilitated naturalisation requirements existed for representatives of the Georgian diaspora.

As was described in the first section of this report, the formation of the current citizenship regime is closely related to the Georgian independent republic of the beginning of the twentieth century. In this regard, an interesting case was brought to attention in 2007 when the leader of the 'Way of Georgia' political party, Ms. Salome Zourabichvili, protested against the decision made by the Central Election Commission (CEC), which denied her the right to register as a presidential candidate because according to the election code a presidential contender must have lived in Georgia for at least 15 years. Salome Zourabichvili, who only acquired Georgian citizenship in March 2004, was born in France in a family of Georgian expatriates of the Democratic Republic of 1918-1921 which left Georgia after the Soviet annexation. The exact number of emigrants from this era is not known, however their right to Georgian citizenship remains undefined. In July 2007, Salome Zourabichvili sent a letter to the CEC asking whether she had the right to run for presidency. In a response letter, which in itself is a legally bound official act, the CEC said that she had no such right.<sup>94</sup> In September 2007, Ms. Zourabichvili appealed to the court in Tbilisi, requesting the CEC decision be annulled, arguing that her ancestors together with the legitimate government of that period were forced to leave their homeland and emigrate, whereas they were full-fledged Georgian citizens based on the 1919 Law on Citizenship and 1921 Constitution of Georgia, and their descendants should remain Georgian citizens, even though they refrained from returning to Soviet Georgia, fearing political repression.<sup>95</sup> However, Tbilisi City Court decided not to hear the case and created the precedent that the citizenship of 1918-1921 Democratic Republic of Georgia does not

<sup>89</sup> The Law on Diaspora Organisations and Compatriots Living Abroad approved by the Parliament of Georgia on 24 November 2011, entered into force 1 March 2012.

<sup>90</sup> Civil Georgia. Parliament Passes Law for Georgian Expats. *Civil.Ge: Daily News Online* [Online]. 24 November 2011. Available: <http://www.civil.ge/eng/article.php?id=24184> [Accessed 5 December 2011].

<sup>91</sup> Art. 11, Law on Diaspora Organisations and Compatriots Living Abroad.

<sup>92</sup> Art. 11, Law On Diaspora Organisations and Compatriots Living Abroad.

<sup>93</sup> D. Lortkipanidze. სუბიექტური აზრი [Subjective Opinion]. *Maestro TV program*. 6 April 2012. Available: <http://maestro.ge/?address=subieqt5&id=4414&page=1> [Accessed 6 April 2012].

<sup>94</sup> Civil Georgia. Ex-Foreign Minister struggles for presidential bid. *Civil.Ge: Daily News Online* [Online]. 3 September 2007. Available: <http://civil.ge/eng/article.php?id=15715> [Accessed 14 January 2011].

<sup>95</sup> October 8, 2007 ruling by Tbilisi City Court's Administrative Cases Board.

automatically provide a right to citizenship for descendents of these people in post-Soviet Georgia (Kordzaia, 2008).

At present, as defined by the Law on Citizenship, the only specifically defined category of individuals for whom the separate naturalisation requirements do not apply are people with a special repatriation status.<sup>96</sup> The latter is defined by the special law in which the State of Georgia admitted that a significant number of people living on its territory in the 1940s were unfairly and inhumanely treated by the Soviet rulers and that the present Georgian authorities admit responsibility and undertake the obligation to allow and facilitate the return of these individuals to their historical homeland.<sup>97</sup> These people, commonly called ‘Muslim Meskhetians’, were deported in 1944 from a southern region of Georgia that neighbours Turkey on the allegation that they clandestinely supported the interests of Turkey (Pirveli, 2006). In 1999 Georgia undertook an obligation before the Council of Europe to repatriate such deported people to Georgia until 2012; this was the basis on which the Parliament of Georgia enacted the Law on Repatriation of Individuals Deported from the Georgian SSR by the Soviet Union in the 1940s. The specific procedures for granting citizenship are defined in the Governmental decree, according to which the only requirement of application for Georgian citizenship is that a person is obliged to apply for it within two years after being awarded repatriation status.<sup>98</sup> If the application for citizenship is successful, the President issues an order which enters into force upon submission of an official document of the applicant’s withdrawal from the citizenship of another State, or for the individuals whose countries of citizenship do not allow withdrawal before acquisition of a new citizenship, a document which permits a future withdrawal.<sup>99</sup> Out of an estimated 450,000 deported Muslim Meskhetians living in eight different countries<sup>100</sup> as of March 2012, only 5,841 family-level applications<sup>101</sup> have been made for acquisition of repatriation status, which amounts to 8,900 individual cases, out of which 489 people were granted this status, while 1 individual received Georgian citizenship.<sup>102</sup> Arguably, one of the main reasons why only a small portion of these of deported individuals seek repatriation status are the bureaucratic complications, as well as the poor socioeconomic life and integration prospects of potential returnees (Ombudsman of Georgia, 2012).

#### 4. Current Political Debates and Reform Plans

Although the Law on Citizenship has been amended a number of times since 1993, the overarching consensus among the contacted stakeholders is that the existing legislative framework needs to be reformed. New initiatives have to pass through the existing structure on citizenship policymaking, which as of 2011 primarily consisted of the top agenda-setters, professional civil service and concerned international agents. The section also reviews briefly a new draft law on citizenship.

##### 4.1. The Modes of Policymaking on Citizenship

The reforms related to the citizenship regime rarely become the main topic of public discourse in Georgia. Although the citizenship of a Georgian opposition figure turned into one of the major news events of October 2011, public interest concentrated on the compliance of the existing system with the procedures applied in this particular case. The chronology of changes in citizenship regime, the

<sup>96</sup> Art. 27<sup>1</sup>, Organic Law On Citizenship of Georgia.

<sup>97</sup> The Law On Repatriation of Individuals Deported from the Georgian SSR by Soviet Union in the 1940s.

<sup>98</sup> Art. 2, Government of Georgia, decree №87 on the simplified procedures of granting citizenship for individuals having repatriation status, adopted 30 March 2010.

<sup>99</sup> Art. 5, *ibid*.

<sup>100</sup> N. Rodonaia. მაჰმადიან მესხებს დოკუმენტების ჩაბარების ვადა ეწურებათ [The deadline nears for submission of documents by Muslim Meskhetians]. *Radio Free Europe: Radio Liberty* [Online]. 19 June 2009 Available: <http://www.radiotavisupleba.ge/content/article/1759769.html> [Accessed January 25, 2011].

<sup>101</sup> It was also declared that more than 3000 applications for repatriation status were incorrectly completed and lacked some of the required documents.

<sup>102</sup> J. Rakhviashvili. დოუსრულებელი რეპატრაცია [The unfinished repatriation]. *Radio Free Europe: Radio Liberty* [Online]. 5 April 2012 Available: <http://www.radiotavisupleba.ge/content/article/24538485.html> [Accessed 6 April 2012].



review of parliamentary debates, and interviews conducted in the relevant public and non-governmental organisations indicate the three layers that constitute the policymaking framework on citizenship in Georgia. On the one hand, the broadest ideas on changes in citizenship regime, such as introduction of dual citizenship, directly stem from the ruling elites and seemed to be linked to the domestic and international affairs of the country. The decisions on this level have been executed without prior public consultations and legislative debate. Generally, the constitutional reforms of recent years have reduced the influence of parliament in governance, creating a climate where decisions are made and implemented quickly with little deliberation or contestation; this has been especially true since the 2008 elections, when opposition politicians left parliament, refusing to recognise the legitimacy of the elections (Mitchell, 2009). The minutes of the plenary sessions of parliament on which amendments and additions in citizenship law were passed indicate there have been limited, if any, debates on changes. Neither our attempts to research the role of the specialised parliamentary bodies – such as the Committees on Legal and Diaspora and Caucasus Issues – were fruitful. The accessed minutes generally lacked detail on the specific opinions expressed and accepted by the participants, while in some cases, minutes were not available for research purposes. Apparently, like in most domains of policymaking, initiated reforms on citizenship from the agenda-setters are quickly adopted and are associated with no or very limited public consultation process.<sup>103</sup>

On the other hand, the interviews conducted clearly indicated that a few international organisations working on citizenship-related matters have been influential actors in promoting policy change in this area. Apparently one of the main motives to proceed with the reform agenda on citizenship since the second half of the 2000s was the problem of stateless persons, whereas the specific driving force has been a project supported by the United Nations agencies of UNHCR and UNICEF and implemented by the ‘Legal Development and Consultations Group’ and ‘Innovations and Reforms Centre,’ in cooperation with the CRA. This project was primarily intended to reduce the number of stateless persons and, more generally, to work on the legislative framework of citizenship in Georgia, consequently generating a broader understanding of the problems of the entire citizenship regime.<sup>104</sup> This seemed to be one of the few cases where the interests of different agencies were brought together and the professionals from governmental as well as non-governmental sectors participated in project implementation. Although the described initiative did not have a formal status before 2011, there were regular meetings in the CRA where the major citizenship-related problems were discussed. At the end of 2010, the government created the State Commission for Migration Issues with the technical-organisational support of the CRA, which consisted of several thematic working groups. One of these working groups specialised in reducing the number of stateless persons (Gagnidze, 2011). The working model adopted by the project was based on institutional consultations, preparing reports and presenting them to decision-makers on various venues, which in the end turned out to be a viable approach to shaping policies.

The autonomous role of an increasingly professional, but still politicised, civil service should not be underestimated in the Georgian policymaking framework on citizenship. All interviewees at the CRA indicated that the agency periodically promoted amendments and additions to the Law on Citizenship and changes in administrative procedures to improve the existing practices. The initiatives mostly came from the Migration and Citizenship Division of CRA, based on which the Judicial Division advanced legal changes through the Ministry of Justice and the parliament (Tsilosani, 2011). Obviously, no other parties had a better understanding of what practical problems were stemming from the existing legislative framework on citizenship, which has been primarily oriented toward how to determine Georgian citizenship, while most of the resources in recent years were spent on dual citizenship applications. The CRA employees also believed that the opinions of practitioners have been actively considered in decisions on the citizenship regime made by the higher executive and legislative bodies (Amisulashvili, 2011). Overall, it is difficult to conclude how reforms in the

<sup>103</sup> One of the few exceptions could be a case reported by Radio Free Europe in 2002 when the president of the Association of American Georgians shared her ideas on the necessity of dual Georgian citizenship with heads of most of the political fractions in the parliament.

<sup>104</sup> CRA. სამოქალაქო რეესტრმა UNICEF-ის და UNHCR-ის დახმარებით ახალ პროექტს დაიწყო [CRA started a new project with UNICEF and UNHCR assistance]. *CRA News*. [Online]. 7 April 2009. Available: [http://www.cra.gov.ge/index.php?lang\\_id=GEO&sec\\_id=49&info\\_id=349](http://www.cra.gov.ge/index.php?lang_id=GEO&sec_id=49&info_id=349) [Accessed 6 January 2012].

citizenship system are initiated and implemented, but apparently political elites, international pressure groups and the professional civil service complement and interact with each other, leading to already observed changes, outlined earlier in the report, and contemplated reforms, described in the following subsection. Last but not least, some of our interviewees, who have been active in drafting the 1993 law as well as participating in the current legislative affairs, revealed their concerns on the transparency of the undergoing process, while the CRA was accused of working confidentially on important public matters (Khmaladze, 2011; Kordzaia, 2011).

## 4.2. A New Draft Law on Citizenship

As already mentioned, the organisational structure, which is currently a driving force of the reform agenda, is the Working Group of the State Commission for Migration Issues at the CRA, while one of the major perceived problems is the existing Law on Citizenship (Gagnidze, 2011). In spite of many improvements in recent years, such as various amendments and increasing administrative effectiveness,<sup>105</sup> the reforms were mostly idiosyncratic and incoherent, sometimes intending to solve problems related to individual cases. A gap between existing needs in terms of citizenship and the available legal framework on citizenship was identified in all reports commissioned by the project (Biganishvili, 2010; Gagnidze, 2008; Kordzaia, 2008; Papuashvili, 2008). In addition to the core participants of the initiative, consisting of representatives of the CRA, the Ministry of Foreign Affairs, UNICEF and the Innovations and Reforms Centre, other agencies such as the President's Administration, the Ministries of Internal Affairs and IDPs from the Occupied Territories, Accommodation and Refugees of Georgia were involved in working on the draft law. The issues of citizenship reforms were also featured in the media in a number of programs on national radio and three programs in public broadcaster that addressed citizenship-related topics.<sup>106</sup> Participants of the working group also indicated that in the process of drafting, the case studies of Ukraine, the Baltic countries, the Czech Republic and Ireland have been consulted, particularly in regard to statelessness aspects (Kikvidze, 2011). The commission met on 20 April 2011, and recommendations were outlined based on which the draft law was elaborated. Different individuals participated in drafting this law, but the compilation of various ideas in specific articles was done by the Innovations and Reforms Centre (Yucer, 2011).

As of September 2011, in comparison to the existing law on citizenship, there are several major changes in the elaborated draft that takes into consideration some of the problems described earlier in this report. To further reduce the problem of statelessness, the law changes the conditions of citizenship determination by granting citizenship to persons who have lived in Georgia for at least 3 years before the enactment of the original law and resided in Georgia on 27 March 1993. In addition, citizenship is also granted to persons if they were born in the territory of Georgia and in the last ten years, before 27 March 1993, lived in Georgia for at least 3 years and did not accept citizenship in another country. One of the most problematic aspects of the current law, which stipulates that living abroad for two years without registering with the Georgian diplomatic mission causes the termination of Georgian citizenship, is mitigated by increasing the length of this period to 7 years. There are no major changes in regard to the *ius soli* and *ius sanguinis* principles. *Ius soli* applies only to a child present in Georgia whose parents are not known until the contrary is proven. The law also allows changing the citizenship of children 14 years or older only after their consent. Two alternative approaches on obtaining citizenship at birth were elaborated. On the one hand, the CRA's position was to grant citizenship to (1) a child who has at least one parent who is a Georgian citizen, or (2) a child who was born through surrogacy when the country of biological parents does not grant citizenship to the child. In addition to these conditions, the Innovations and Reforms Centre proposed two additional clauses on granting Georgian citizenship to (3) a child with both parents at the moment

<sup>105</sup> These improvements among other factors derived from technological advancements through the creation of required software and databases, higher financial rewards to staff, etc. For a more comprehensive description of reform see Alam (2012).

<sup>106</sup> Radio 1. მიგრაციის მარშრუტები [Migration Routes]. *Georgian Public Broadcast* [Online]. Available: <http://www.radio1.ge/Audios.aspx?Show=36> [Accessed 2 March 2012].

of birth having stateless status in Georgia, or (4) a child whose one parent is a person with stateless status in Georgia while the other is a foreign citizen, if the child would become stateless otherwise.

The draft law intends to allow granting citizenship to an under-aged child with at least one parent who is a Georgian citizen, when the child does not have citizenship by birth. Simplified procedures of citizenship acquisition are also envisaged for certain groups. Unlike the current law, a person can naturalise without passing tests in the state language, legislation and history of Georgia if he or she is married to a Georgian citizen and has lived in Georgia for the last 2 years. The assessed draft version of the law did not envisage significant changes related to dual citizenship and continued to refer to article 12 of the Constitution of Georgia, which states that dual citizenship can be granted to foreign citizens if they have special merit before Georgia or if granting them citizenship is in the state interests of Georgia. In the summer of 2011, recommendations for the new law were presented to the State Commission and also agreed with the President's administration, while work continued on more technical details (Odisharia, 2011). The described draft law most likely has already been changed by April 2012, when the current report was finalised, and will apparently continue to be shaped by political developments in the country. Formally, it needs to be approved by the State Commission for Migration Issues, headed by the deputy of the Ministry of Justice, before it goes to the parliament for legislative considerations. In December 2011, the Innovations and Reforms Centre conducted a concluding meeting of the project within which the draft law was worked out with the participation of all major stakeholders, where in addition to the draft law on citizenship other proposed changes in various legislative norms were outlined. Nonetheless, the expected political developments of the near future might prevent reforms from happening, as the consecutive parliamentary and presidential elections in 2012 and 2013 might divert the attention of legislative and executive public officials and civil service to more immediate concerns.

## 5. Conclusions

Several conclusions can be derived from the tendencies described above. The citizenship regime in Georgia since the beginning of twentieth century evolved in the particular historical context of the country, and the region as a whole, in which the fundamental elements affecting the public and elites' discourse remained unchanged for a large part of the past century. The Soviet interim rule in 1921-1991 appears to have had little, if any, influence on the perception of citizenship in post-socialist Georgia. In drafting the Law on Citizenship of 1993, the prevailing idea was that the emerging citizenship regime had to secure not only the national identity but also the country's territorial integrity by leaving little opportunity for people in separatist regimes to withdraw from the granted citizenship. Coincidentally, citizenship matters in the breakaway Georgian regions, and in particular the Russian passportisation policy, became one of the root causes of the Russo-Georgian War in 2008. Georgia also demonstrated a divergence in the path dependency of citizenship policies by simplifying the residency requirement for naturalisation from 10 to 5 years and introducing dual citizenship provisions from the second half of the 2000s. However, the main transformation in the policymaking on citizenship seems to be a change in the mode of thinking about citizenship in Georgia. While in the 1990s the dominant ideas on citizenship were closely related to nationalism, at the end of the 2000s pragmatic economic, demographic and political aspects were likely causes of policy change. The main rationale for the implemented reforms was the reduction of statelessness, advocated by the UNHCR, and maintaining links with the country's growing number of expatriates in order to ease acute demographic concerns and win back the human and physical resources of the emigrated population. The consequences of these citizenship regime changes remain to be seen, but apparently a large part of new citizens either were eligible or already possessed citizenship of Georgia, because most naturalised citizens were residents whose citizenship could not be established since the beginning of 1993, while many of the new dual citizens were those who acquired citizenship of another country and therefore lost or renounced their Georgian citizenship before again acquiring dual Georgian citizenship.

The existing citizenship regime in uncontested Georgian territory is primarily based on the *ius sanguinis* principle, while the *ius soli* principle of citizenship acquisition is almost exclusively applied

to children of stateless persons if they are born in the territory of Georgia and their parents reside permanently in the territory of Georgia. One of the major problems of the regime is that many residents and their children still remain stateless, which was caused by the excessively cumbersome conditions of citizenship determination applied in the beginning of the 1990s, consequently leading to the social exclusion of these people, who had limited access to health, education and other public services. The decision-making on granting dual citizenship is also ambiguous because it is unclear in the legislative framework what is the particular contribution, or what are the interests of the state as necessary conditions for granting citizenship to foreign citizens. A related concern is undefined military obligations in cases of multiple nationalities, especially when these citizenships stem from the presently belligerent states of Georgia and the Russian Federation. A large part of the law on the termination of citizenship is also dysfunctional, as only rarely is citizenship lost based on the failure to register formally at the Georgian foreign diplomatic representation if living abroad, while the state's capacity to monitor its citizens' acquisition of new citizenships is limited, unless these individuals themselves apply for Georgian dual citizenship. Last but not least, although the *de facto* citizenship regimes in Georgia's breakaway regions are not internationally recognised, they still affect thousands of lives and are ethnically discriminatory. The overwhelming consensus among the interviewed stakeholders is that these shortcomings of the legal framework should be addressed, which apparently can be done through three main groups of actors – ruling executive and legislative elites, a handful of international actors and interest groups and the increasingly professional, albeit politicised, civil service. The general weakness of civil society and still restrictive consultation mode of policymaking leave the process of citizenship reform far from being fully participatory and transparent, while problems with the democracy and rule of law leave space for citizenship to be used as a tool for political competition.



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